No. 02-94 (12)

IN THE

Supreme Court of the United States

WILLIAM OVERTON, Director of Michigan Department of Corrections; MICHIGAN DEPARTMENT OF CORRECTIONS,

Petitioners,

v.

MICHELLE BAZZETTA, et al,

Respondents.

Supreme Court U.S.
FILED
JAN 16 2003
OFFICE OF THE CLERK

On Writ of Certiorari To the United States Court of Appeals For The Sixth Circuit

JOINT APPENDIX

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Petition for Certiorari filed July 18, 2002
Certiorari granted December 2, 2002

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U.S. District Court
for the Eastern District of Michigan (Detroit)

CIVIL DOCKET FOR CASE #: 95-CV-73540

Bazzetta, et al v. McGinnis, et al

Filed: 08/31/95
Assigned to: Judge Nancy G. Edmunds
Jury demand: Plaintiff
Demand: $0,000
Nature of Suit: 550
Lead Docket: None
Jurisdiction: Federal Question
Dkt # in Wayne Cnty, MI : is 95-524626 CZ

MICHELLE BAZZETTA plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 [COR NTC ret] 1420 One Kennedy Square Detroit, MI 48226 313-964-6520 Deborah A. LaBelle [COR LD NTC ret] 221 N. Main Street Suite 300 Ann Arbor, MI 48104 734-996-5620 Patricia A. Streeter [COR LD NTC ret] 221 N. Main Street

	Suite 300 Ann Arbor, MI 48104 734-222-0088 FTS 769-2196
STACY BARKER plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]
TONI BUNTON plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]
DEBRA KING plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]

SHANTE ALLEN plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]
ADRIENNE BRANAUGH plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]
ALESIA BUTLER plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]
TAMARA PRUDE plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above)

	[COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]
SUSAN FAIR plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]
VALERIE BUNTON plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR LD NTC ret]
ARTURO BUNTON, through his Next Friend Valerie Bunton plaintiff	Michael J. Barnhart Below Address Terminated on 11/6/00 (See above) [COR NTC ret] Deborah A. LaBelle (See above) [COR LD NTC ret]

	Patricia A. Streeter (See above) [COR LD NTC ret]
v. KENNETH MCGINNIS, Director of Michigan Department of Corrections defendant	Lisa C. Ward [term 04/02/98] Below Address Terminated on 1/21/99 [COR LD NTC ret] Michigan Department of Attorney General Habeas Corpus Division 120 N. Washington Sq, 1st Flr P.O. Box 30217 Lansing, MI 48909 517-373-4875 Leo H. Friedman [COR LD NTC ret] Mark W. Matus [COR LD NTC ret] Michigan Department of Attorney General Corrections Division P.O. Box 30217 Lansing, MI 48909 517-335-7021 George N. Stevenson [COR LD NTC ret] Kevin M. Thom [COR LD NTC aus] Michigan Department of Attorney General Corrections Division P. O. Box 30217 Lansing, MI 48909 517-335-7021

	Barbara A. Schmidt [COR LD NTC ret] Barbara A. Schmidt (See above) [COR LD NTC ret] Michigan Department of Attorney General Natural Resources Division 300 S. Washington Square Suite 315 Lansing, MI 48913 517-373-7540 Lisa C. Ward [COR LD NTC ret] 1300 N. Waverly, Suite 5 Lansing, MI 48917 517-323-0300
MICHIGAN DEPARTMENT OF CORRECTIONS defendant	Lisa C. Ward [term 04/02/98] Below Address Terminated on 1/21/99 (See above) [COR LD NTC ret] George N. Stevenson (See above) [COR LD NTC ret] Kevin M. Thom (See above) [COR LD NTC aus] Barbara A. Schmidt (See above) [COR LD NTC ret] Barbara A. Schmidt (See above) [COR LD NTC ret] Lisa C. Ward (See above)

	[COR LD NTC ret]
RONALD CRAWFORD movant	Ronald Crawford 141625 [NTC pro] [PRO SE] Saginaw Correctional Facility 9625 Pierce Road Freeland, MI 48623
DAN BOLDEN, Deputy Director of the Correctional Facilities, Michigan Department of Corrections defendant	Lisa C. Ward Below Address Terminated on 1/21/99 [COR LD NTC ret] Michigan Department of Attorney General Habeas Corpus Division 120 N. Washington Square, 1st Floor P.O. Box 30217 Lansing, MI 48909 517-373-4875 Kevin M. Thom [COR LD NTC aus] Michigan Department of Attorney General Corrections Division P. O. Box 30217 Lansing, MI 48909 517-335-7021 Lisa C. Ward [COR LD NTC ret] 1300 N. Waverly Suite 5 Lansing, MI 48917 517-323-0300
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Deborah A. LaBelle
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221 N. Main Street
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Ann Arbor, MI 48104
734-996-5620
Patricia A. Streeter
[COR LD NTC ret]
221 N. Main Street
Suite 300
Ann Arbor, MI 48104
734-222-0088
FTS 769-2196

v.

MARJORIE VANOCHTEN, Administrator of the Office of Policy and Hearings of the Michigan Department of Corrections
defendant

Kevin M. Thom
[COR LD NTC aus]
Michigan Department of Attorney General
Corrections Division
P. O. Box 30217
Lansing, MI 48909
517-335-7021
Lisa C. Ward
[COR LD NTC ret]
1300 N. Waverly
Suite 5
Lansing, MI 48917
517-323-0300

DOCKET PROCEEDINGS

DATE	#	DOCKET ENTRY
8/31/95	1	PETITION by defendants Kenneth McGinnis and MI Dept Corr for removal from Wayne County Circuit Court - Receipt # 319922 - Date Fee Received: 9/1/95 with attachments (1142) [Entry date 09/07/95]
8/31/95	1	COPY OF COMPLAINT with attachments - original filed in Wayne County Circuit Court 95-524626-CZ (1142) [Entry date 09/07/95]
8/31/95	1	ANSWER by Kenneth McGinnis, MI Dept Corr to complaint [1-1] (1142) [Entry date 09/07/95]
8/31/95	1	AFFIRMATIVE defenses by Kenneth McGinnis, MI Dept Corr (1142) [Entry date 09/07/95]
8/31/95	2	AFFIDAVIT by counsel for defendants regarding petition for removal from Wayne County Circuit Court (1142) [Entry date 09/07/95]
8/31/95	3	APPEARANCE for Kenneth McGinnis, MI Dept Corr of attorney George N. Stevenson (1142) [Entry date 09/07/95]
8/31/95	4	PROOF of mailing by defendants of pleadings # 1 - # 3 (1142) [Entry date 09/07/95]
9/1/95	5	ORDER by Judge John Corbett O'Meara in the absence of Judge Nancy Edmunds for temporary restraining order, that a hearing will be held to show cause why a preliminary injunction should

not be issued and that plaintiffs being indigent an incarcerated are not required to set a bond (1087) [Entry date 09/07/95]

9/7/95 -- SCHEDULE: by Judge Nancy G. Edmunds hearing on plaintiff's motion for preliminary injunction set for 9/21 at 9:30 (1099) [Entry date 09/07/95]

9/7/95 6 PETITION and order by Judge Nancy G. Edmunds, for writ of habeas corpus ad testificandum for Toni Bunton, #221034 to appear on 9/11/95 at 9:30 (1087) [Entry date 09/08/95]

9/7/95 7 PETITION and order by Judge Nancy G. Edmunds, for writ of habeas corpus ad testificandum for Alesia Butler, #216156 to appear on 9/11/95 (1087) [Entry date 09/08/95]

9/7/95 8 PETITION and order by Judge Nancy G. Edmunds, for writ of habeas corpus ad testificandum for Stacy Barker, #191124 to appear on 9/11/95 at 9:30 (1087) [Entry date 09/08/95]

9/8/95 9 ORDER by Judge Nancy G. Edmunds dismissing plaintiffs' state law claims and requiring filing of amended complaint with proof of mailing (1054) [Entry date 09/12/95]

9/12/95 10 PETITION by plaintiffs for writ of habeas corpus ad testificandum for Alesia Butler #216156 to appear on 9/21/95 at 9:00am as to defendants Kenneth McGinnis and MI Dept Corr WI (1092) [Entry date 09/13/95]

9/12/95 11 PETITION by plaintiffs for writ of habeas corpus ad testificandum for Stacy Barker #191124 to appear on 9/21/95 at 9:00am as to defendants Kenneth McGinnis and MI Dept Corr WI (1092) [Entry date 09/13/95]

9/12/95 12 PETITION by plaintiffs for writ of habeas corpus ad testificandum for Toni Bunton #221034 to appear on 9/21/95 at 9:00am as to defendants Kenneth McGinnis and MI Dept Corr WI (1092) [Entry date 09/13/95]

9/12/95 13 STIPULATION and order by Judge Nancy G. Edmunds, to extend duration of temporary restraining order (1092) [Entry date 09/13/95]

9/14/95 14 MOTION by plaintiffs for preliminary injunction (1142) [Entry date 09/18/95]

9/14/95 15 MEMORANDUM by plaintiff in support of motion for preliminary injunction [14-1] with attachments and proof of mailing (1142) [Entry date 09/18/95]

9/14/95 16 RESPONSE by defendants to motion for temporary restraining order and/or preliminary injunction by plaintiffs [14-1] with brief and attachments (1142) [Entry date 09/18/95]

9/20/95 17 MOTION by plaintiffs' for reconsideration of order dismissing plaintiffs' state law claims [9-1], order requiring filing of amended complaint [9-2] with brief and proof of mailing (1079) [Entry date 09/21/95]

9/21/95 -- MOTION hearing held and continued on motion for preliminary injunction by plaintiffs [14-1] to

9/22/95. Arguments heard, testimony taken - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (1099) [Entry date 09/21/95]

9/21/95 18 PETITION by plaintiffs' for writ of habeas corpus ad testificandum for Michelle Bazzetta #205347 to appear as a witness on 9/22/95 at 9:00am as to defendant Kenneth McGinnis, defendant MI Dept Corr; writ issued (1079) [Entry date 09/22/95]

9/22/95 -- MOTION hearing held, testimony taken, and continued on motion for preliminary injunction by plaintiffs [14-1] to 3:00 9/27/95 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (1099) [Entry date 09/22/95]

9/26/95 -- TELEPHONE conference held - Judge Nancy G. Edmunds (1099) [Entry date 09/26/95]

9/26/95 -- SCHEDULE: by Judge Nancy G. Edmunds hearing on motion for preliminary injunction by plaintiffs [14-1] adjourned to 1:00 9/28/95 (1099) [Entry date 09/26/95]

9/27/95 19 AMENDED complaint 2 by plaintiff adding Dan Bolden; with proof of mailing (1087) [Entry date 09/27/95]

9/28/95 -- MOTION hearing held and concluded on motion for preliminary injunction by plaintiffs [14-1] - disposition: denied - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (1099) [Entry date 09/28/95]

9/28/95 20 MOTION by plaintiffs for designation as a class action with brief and proof of mailing (1076) [Entry date 09/29/95]

10/2/95 -- SCHEDULE: by Judge Nancy G. Edmunds hearing on motion for designation as a class action by plaintiffs [20-1] set for 2:00 12/13/95 (1099) [Entry date 10/02/95]

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10/2/95 22 ORDER by Judge Nancy G. Edmunds granting motion for reconsideration of order dismissing plaintiffs' state law claims [9-1], order requiring filing of amended complaint [9-2] [17-1], vacating, in part, order dismissing plaintiffs' state law claims [9-1], and to remanding case to Wayne County Circuit Court with proof of mailing (1092) [Entry date 10/04/95]

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10/6/95 24 MOTION and order by Judge Nancy G. Edmunds for enlargement of time in which to file responsive pleading with proof of mailing (1142) [Entry date 10/10/95]

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10/6/95 26 ORDER by Judge Nancy G. Edmunds satisfying order of 9/8/95 and that plaintiffs second amended complaint for injunctive and declaratory relief is accepted for filing with proof of mailing (1142) [Entry date 10/10/95]

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10/20/95 28 ACKNOWLEDGEMENT from Wayne County Circuit Court of receipt of notice remanding state law claims to Wayne County Court [27-1] (1171) [Entry date 10/23/95]

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10/27/95 32 DESIGNATION of record by plaintiffs for appeal notice [29-1] (1076) [Entry date 10/31/95]

10/27/95 33 TRANSCRIPT order form by plaintiffs regarding appeal notice by plaintiffs [29-1] requesting transcript(s) of: 9/21/95, 9/22/95, 9/23/95 (1076) [Entry date 10/31/95]

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11/27/95 36 TRANSCRIPT taken on 9/22/95 of Continued motion for preliminary injunction - volume II before Judge Nancy Edmunds (1054) [Entry date 11/28/95]

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12/1/95 38 ORDER by Judge Nancy G. Edmunds for defendants to show cause why court should not grant plaintiffs' motion for designation of class action with proof of mailing (1054) [Entry date 12/05/95]

12/5/95 39 MOTION by defendants for dismissal and for summary judgment with brief and proof of mailing (1054) [Entry date 12/06/95]

12/5/95 40 ORDER by Judge Nancy G. Edmunds scheduling hearing on motion for summary judgment [39-2] and for dismissal by Dan Bolden, MI Dept Corr, Kenneth McGinnis [39-1] and scheduling deadline for response and reply brief (1054) [Entry date 12/06/95]

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MI Dept Corr, Kenneth McGinnis [39-1] set for 2:00 1/31/96, motion for summary judgment by Dan Bolden, MI Dept Corr, Kenneth McGinnis [39-2] set for 2:00 1/31/96 (1099) [Entry date 12/06/95]

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1/9/96 47 MOTION by plaintiffs for adjournment of oral argument and for enlargement of time to answer defendants' motion for dismissal and/or for summary judgment [39-1] [39-2] with brief and proof of mailing (1142) [Entry date 01/09/96]

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2/16/96 52 ORDER by Judge Nancy G. Edmunds denying motion to extend time to file a reply to plaintiffs' response by Dan Bolden, MI Dept Corr, Kenneth McGinnis [50-1] (1010) [Entry date 02/22/96]

2/26/96 53 NOTICE of hearing on motion for dismissal by Dan Bolden, MI Dept Corr, Kenneth McGinnis

[39-1], motion for summary judgment by Dan Bolden, MI Dept Corr, Kenneth McGinnis [39-2] (1052) [Entry date 02/28/96]

3/13/96 -- MOTION hearing held on motion for dismissal by Kenneth McGinnis, MI Dept Corr, Dan Bolden [39-1], motion for summary judgment by Kenneth McGinnis, MI Dept Corr, Dan Bolden [39-2] - disposition: taken under advisement - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (1099) [Entry date 03/13/96]

4/9/96 54 MEMORANDUM opinion and order by Judge Nancy G. Edmunds granting motion for dismissal by Kenneth McGinnis, MI Dept Corr, Dan Bolden [39-1], granting motion for summary judgment by Kenneth McGinnis, MI Dept Corr, Dan Bolden [39-2] with proof of mailing. (1043) [Entry date 04/10/96]

4/9/96 55 JUDGMENT entered by Judge Nancy G. Edmunds that defendants' motion to dismiss and/or for summary judgment is granted, dismissing the case and with proof of mailing. (1043) [Entry date 04/10/96]

4/17/96 56 APPEAL by plaintiffs Michelle Bazzetta, Stacy Barker, Toni Bunton, Debra King, Shante Allen, Adrienne Branaugh, Alesia Butler, Tamara Prude, Susan Fair, Valerie Bunton and Arturo Bunton of orders [54-1] and [55-1] to USCA with proof of mailing - FEE: PAID - Receipt #: 327591 (1044) [Entry date 04/24/96]

4/24/96 57 PROOF of mailing of notice of appeal to USCA, Michael Barnhart, Deborah LaBelle, Lisa Ward,

George Stevenson and Court Reporter Suzanne Jacques (1044) [Entry date 04/24/96]

4/24/96 58 CERTIFIED copy of appeal notice by plaintiffs [56-1] and docket transmitted to USCA (1044) [Entry date 04/24/96]

5/6/96 59 ACKNOWLEDGEMENT from USCA of receipt of appeal notice of appeal & docket [58-1] - appeal case # 96-1559 (1024) [Entry date 05/07/96]

5/8/96 60 MOTION by defendant MI Dept Corr to tax costs, with brief, exhibits 1,2 and proof of service (1074) [Entry date 05/09/96]

5/16/96 61 DESIGNATION of record by plaintiff for appeal notice by plaintiffs [56-1] (1074) [Entry date 05/16/96]

5/16/96 62 TRANSCRIPT order form by plaintiff regarding appeal notice of appeal & docket [58-1] requesting transcript(s) of: none (1074) [Entry date 05/16/96]

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5/22/96 64 TRANSCRIPT taken on 3/13/96 of motion to dismiss and/or summary judgment before Judge Edmunds. (1043) [Entry date 05/24/96]

6/4/96 65 REPLY by defendant to response to motion to tax costs by MI Dept Corr [60-1] with exhibit and proof of mailing (1172) [Entry date 06/04/96]

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9/9/97 69 SLIP opinion from USCA mooting motion for preliminary injunction [0-0] - appeal case # 95-2181, 96-1559 (LB) [Entry date 09/10/97]

9/30/97 70 MANDATE, with slip opinion, from USCA affirming the decision of the District Court, etc. - appeal case # 96-1559 - record not returned (needed in pending appeal #95-2181). (cf) [Entry date 10/02/97]

11/3/97 71 RECORD of appeal notice by plaintiff [56-1] returned from USCA - appeal case # 95-2181 (lb) [Entry date 11/03/97]

1/7/98 72 SLIP opinion from USCA - appeal case # 95-2181,1559 (LS) [Entry date 01/08/98]

1/14/98 73 SLIP opinion from USCA affirming in part the decision of the District Court - appeal case # 95-2181;96-1559 (RH) [Entry date 01/15/98]

2/23/98 74 MANDATE and slip opinion from USCA affirming the decision of the District Court - appeal case # 95-2182 - record not returned. (cf) [Entry date 02/24/98]

3/6/98 75 MOTION by plaintiffs for reinstatement of case with brief, exhibits A-H and proof of mailing (dp) [Entry date 03/09/98]

3/12/98 76 EXHIBITS filed by plaintiffs to supplement plaintiff's motion for reinstatement and brief (exhibit should be Exhibit G of brief) (dp) [Entry date 03/13/98]

3/25/98 77 RESPONSE by plaintiffs to motion for enlargement of time in which to file a responsive pleading [19-1] by Kenneth McGinnis, MI Dept Corr, Dan Bolden [23-1] with proof of mailing (lg) [Entry date 03/27/98]

4/2/98 78 SUBSTITUTION for defendants MI Dept Corr and Kenneth McGinnis of attorney Barbara A. Schmidt in place of attorney Lisa C. Ward for Kenneth McGinnis and MI Dept Corr with proof of mailing. (cf) [Entry date 04/02/98]

4/2/98 79 MOTION and brief by defendants MI Dept Corr and Kenneth McGinnis for enlargement of time to file a response to the motion for reinstatement of case by plaintiff [75-1] with proof of mailing. (cf) [Entry date 04/02/98]

4/3/98 80 ORDER by Judge Nancy G. Edmunds granting motion for enlargement of time to file a response to the motion for reinstatement of case by plaintiff [75-1] by Kenneth McGinnis, MI Dept

Corr [79-1] with proof of mailing (dh) [Entry date 04/07/98]

4/8/98 81 RESPONSE and brief by defendants MI Dept Corr and Kenneth McGinnis to motion for reinstatement of case by plaintiff [75-1] with attachment and proof of mailing. (cf) [Entry date 04/09/98]

4/13/98 -- SCHEDULE: by Judge Nancy G. Edmunds hearing on motion for reinstatement of case by plaintiff [75-1] set for 2:00 7/1/98 (ch) [Entry date 04/13/98]

4/13/98 82 ORDER by Judge Nancy G. Edmunds, for oral argument on motion for reinstatement of case by plaintiff [75-1] (lg) [Entry date 04/14/98]

4/17/98 83 REPLY by plaintiff to response to motion for reinstatement of case by plaintiff [75-1] with proof of mailing (kg) [Entry date 04/21/98]

6/4/98 84 RESPONSE (supplemental) by defendants MI Dept Corr and Kenneth McGinnis to motion for reinstatement of case by plaintiff [75-1] with attachments and proof of mailing. (cf) [Entry date 06/05/98]

6/10/98 85 LETTER from SC appeal case # SC 97-1800, CCA# 95-2181 and 96-1559 that plaintiff's petition for writ of certiorari was placed on teh docket. (LS) [Entry date 06/11/98]

7/1/98 -- SCHEDULE: by Judge Nancy G. Edmunds status conference set for 2:30 10/1/98 (ch) [Entry date 07/01/98]

7/1/98 -- MOTION hearing held on motion for reinstatement of case by plaintiff [75-1] - disposition: granted - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 07/01/98]

7/1/98 86 NOTICE by court of status conference (kg) [Entry date 07/02/98]

7/2/98 87 ORDER by Judge Nancy G. Edmunds granting motion for reinstatement of case by plaintiff [75-1], plaintiff will file an amended complaint by 08/01/98, defendants to answer by 09/01/98, status conference set for 10/01/98, discovery from 06/30/98 to 10/01/98, with proof of mailing (dh) [Entry date 07/07/98]

7/10/98 88 MOTION by plaintiffs for reconsideration of order [87-1] or for clarification of order [87-1] with brief, exhibit and proof of mailing (kg) [Entry date 07/14/98]

7/20/98 89 ORDER by Judge Nancy G. Edmunds granting motion for reconsideration of order [87-1] by plaintiff [88-1], and granting motion for clarification of order [87-1] by plaintiff [88-2] with proof of mailing (nh) [Entry date 07/21/98]

7/20/98 90 PROOF of mailing by plaintiffs of first interrogatories and first request for production of documents (nh) [Entry date 07/21/98]

7/31/98 91 AMENDED complaint (third) by plaintiffs' adding Kim Stanton Hunter, plaintiff, and Marjorie VanOchten, defendant, with jury demand and proof of mailing. (cf) [Entry date 08/03/98] [Edit date 08/03/98]

8/13/98 92 ANSWER by defendants MI Dept Corr and Kenneth McGinnis to third amended complaint by plaintiff [91-1] with proof of mailing (kg) [Entry date 08/14/98]

8/13/98 92 AFFIRMATIVE defenses by defendants MI Dept Corr and Kenneth McGinnis (kg) [Entry date 08/14/98]

8/18/98 93 ORDER by Judge Nancy G. Edmunds with stipulation, extending time to respond to interrogatories (kg) [Entry date 08/19/98]

9/3/98 94 PROOF of mailing of response to first interrogatories and first request for production of documents for defendant McGinnis (LS) [Entry date 09/04/98]

9/21/98 95 NOTICE by the Supreme Court denying the writ of certiorari (dh) [Entry date 09/22/98]

10/1/98 -- STATUS conference held - Judge Nancy G. Edmunds (ch) [Entry date 10/02/98]

10/2/98 -- SCHEDULE: by Judge Nancy G. Edmunds discovery shall be completed within 90 days; deadline for filing dispositive motions (ch) [Entry date 10/02/98]

10/2/98 96 PRETRIAL scheduling order by Judge Nancy G. Edmunds - setting deadline for filing dispositive motions set for 2/1/99 and discovery is to be completed 90 days from the date of this order with proof of mailing (nh) [Entry date 10/05/98]

12/15/98 97 STIPULATION by defendants and plaintiffs, to extend time for discovery and dispositive motions (kg) [Entry date 12/16/98]

12/15/98 98 REVISED PRETRIAL scheduling order by Judge Nancy G. Edmunds setting deadline for discovery for 2/28/99, setting deadline for filing dispositive motions for 4/2/99 (kg) [Entry date 12/16/98]

12/29/98 99 PROOF of mailing by defendants of supplemental response to first interrogatories and first request for production of documents (dp) [Entry date 12/30/98]

2/23/99 100 ORDER (second revised scheduling) by Judge Nancy G. Edmunds with stipulation, extending deadline for discovery for 4/5/99, and extending deadline for filing dispositive motions for 5/5/99. (cf) [Entry date 02/24/99]

3/18/99 101 MOTION by plaintiffs for final extension of time for discovery and/or scheduling of depositions with brief, attachments and proof of mailing (lg) [Entry date 03/19/99]

3/19/99 102 PROOF of mailing by plaintiff of motion for final extension of time for discovery (kg) [Entry date 03/22/99]

3/19/99 103 RESPONSE by plaintiff to motion for protective order with proof of mailing (motion not on docket) (kg) [Entry date 03/22/99]

3/19/99 104 PROOF of mailing by plaintiff of notice of deposition of Marjorie VanOchten (kg) [Entry date 03/22/99] [Edit date 03/22/99]

3/19/99 105 PROOF of mailing by plaintiff of notice of deposition duces tecum of Daniel Bolden (kg) [Entry date 03/22/99] [Edit date 03/22/99]

3/19/99 106 PROOF of mailing by plaintiff of notice of deposition duces tecum of Kenneth McGinnis (kg) [Entry date 03/22/99]

3/19/99 107 PROOF of mailing by plaintiff of notice of deposition duces tecum of Richard McKeon (kg) [Entry date 03/22/99]

3/19/99 108 MOTION by defendants for protective order with brief, exhibits 1-4 and proof of mailing (cm) [Entry date 03/22/99]

3/25/99 109 RE-NOTICE by plaintiff of taking deposition of Marjorie VanOchten at 4:00 on 4/5/99 with proof of mailing (kg) [Entry date 03/26/99] [Edit date 03/26/99]

3/25/99 110 RE-NOTICE by plaintiff of taking deposition of Richard McKeon at 1:00 on 4/2/99 with proof of mailing (kg) [Entry date 03/26/99]

3/25/99 111 NOTICE by plaintiff of taking deposition of Daniel Bolden at 2:00 on 4/5/99 with proof of mailing (kg) [Entry date 03/26/99]

3/25/99 112 RE-NOTICE by plaintiff of taking deposition of Kenneth McGinnis at 9:00 on 4/2/99 with proof of mailing (kg) [Entry date 03/26/99]

4/5/99 113 ORDER by Judge Nancy G. Edmunds denying motion for protective order by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie

VanOchten [108-1], granting motion for final extension of time for discovery and/or scheduling of depositions by plaintiffs [101-1], and setting deadline for discovery for 4/23/99 with proof of mailing (cm) [Entry date 04/06/99]

4/7/99 114 RE-NOTICE by plaintiff's of taking deposition of Richard McKeon on 4/12/99 at 11:00 am with proof of mailing (nh) [Entry date 04/08/99]

4/7/99 115 RE-NOTICE by plaintiff of taking deposition of Marjorie VanOchten on 4/22/99 at 9:00 am with proof of mailing (nh) [Entry date 04/08/99]

4/7/99 116 RE-NOTICE by plaintiff of taking deposition of Daniel Bolden on 4/15/99 at 9:00 am with proof of mailing (nh) [Entry date 04/08/99]

4/14/99 117 RE-NOTICE by plaintiffs of taking deposition of Daniel Bolden on 4/21/99 at 10:00 am with proof of mailing (lg) [Entry date 04/15/99]

4/14/99 118 SUBPOENA returned executed by process server on 4/6/99 as to Daniel Bolden (lg) [Entry date 04/15/99]

4/14/99 120 SUBPOENA returned executed by process server on 4/6/99 as to Keron Moore (lg) [Entry date 04/15/99]

4/14/99 121 SUBPOENA returned executed by process server on 3/24/99 as to Kenneth McGinnis (lg) [Entry date 04/15/99]

4/14/99 122 NOTICE by plaintiffs of taking deposition of Richard McKeon on 4/21/99 at 2:00 pm with proof of mailing (lg) [Entry date 04/15/99]

4/15/99 119 SUBPOENA returned executed by process server on 4/6/99 as to Keron Moore (lg) [Entry date 04/15/99]

4/26/99 123 PROOF of mailing by plaintiffs of second set of interrogatories and document request (kg) [Entry date 04/27/99]

4/27/99 124 MOTION by defendants to enlarge response time to file a dispositive motion with brief and proof of mailing (cm) [Entry date 04/28/99]

5/5/99 125 RESPONSE by plaintiffs' to motion for enlargement of response time to file a dispositive motion by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [124-1] with proof of mailing. (cf) [Entry date 05/05/99]

5/14/99 126 ORDER by Judge Nancy G. Edmunds granting motion to enlarge response time to file a dispositive motion by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [124-1], setting deadline for filing dispositive motions for 6/7/99 with proof of mailing (dh) [Entry date 05/17/99]

2/7/00 127 NOTICE by Judge Nancy G. Edmunds' chambers setting settlement conference for 2:30 p.m. on 2/22/00; with proof of mailing (dp) [Entry date 02/08/00]

2/22/00 -- STATUS conference held - Judge Nancy G. Edmunds (ch) [Entry date 02/22/00]

2/28/00 128 ORDER by Judge Nancy G. Edmunds setting certain dates - setting deadline for final pretrial

order for 3/23/00, setting final pretrial conference for 10:00 3/28/00, setting civil trial for 9:00 4/3/00 with proof of mailing. [EOD Date 2/29/00] (cf) [Entry date 02/29/00]

2/29/00 129 ORDER by Judge Nancy G. Edmunds, setting trailing trial docket for 4/4/00 with proof of mailing [EOD Date 3/1/00] (cm) [Entry date 03/01/00]

3/8/00 130 MOTION by defendants to adjourn trial date of 4/4/00 and 3/23/00 motion in limine deadline with brief and proof of mailing (cm) [Entry date 03/09/00]

3/15/00 131 RESPONSE by plaintiff to motion to adjourn trial date of 4/4/00 and 3/23/00 motion in limine deadline by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [130-1] with exhibits 1-3 and proof of mailing (LS) [Entry date 03/16/00]

3/24/00 132 ORDER by Judge Nancy G. Edmunds granting motion to adjourn trial date of 4/4/00 and 3/23/00 motion in limine deadline by Kenneth McGinnis, MI Dept Corr, Dan Bolden and Marjorie VanOchten [130-1] and re-setting deadline for final pretrial order for 4/18/00, re-setting final pretrial conference for 2:00 p.m. on 4/25/00, re-setting civil jury trial for 9:00 a.m. on 5/2/00 and re-setting deadline for filing motions in limine for 04/18/00; with proof of mailing [EOD Date 3/27/00] (dp) [Entry date 03/27/00]

4/3/00 133 APPEARANCE for defendants Marjorie VanOchten, Dan Bolden, MI Dept Corr and

Kenneth McGinnis of attorney Lisa C. Ward, with proof of mailing (kg) [Entry date 04/04/00]

4/6/00 134 MOTION by plaintiffs for immediate consideration of notice of non-cooperation and motion to compel and to adjourn pre-trial and trial dates for 60 days with brief, attachments, notice and proof of mailing (kg) [Entry date 04/07/00]

4/13/00 135 RESPONSE by defendants to motion for immediate consideration of notice of non-cooperation and motion to compel and to adjourn pre-trial and trial dates by plaintiffs [134-1] with proof of mailing (cm) [Entry date 04/14/00]

4/14/00 -- TELEPHONIC MOTION hearing held on motion for immediate consideration of notice of non-cooperation and motion to compel and to adjourn pre-trial and trial dates for 60 days by plaintiffs [134-1] - disposition: resolved/denied - Judge Nancy G. Edmunds (ch) [Entry date 04/14/00]

4/24/00 136 MOTION by plaintiffs for a view of sample Michigan Department of Corrections facilities by Court with proof of mailing (dp) [Entry date 04/25/00]

4/25/00 -- FINAL pretrial conference held - Judge Nancy G. Edmunds (ch) [Entry date 04/25/00]

4/25/00 137 MOTION by defendants to dismiss monetary damage claims, to strike plaintiff's jury demand and for the Court to determine that the only defendants are the MDOC and its director with

brief and proof of mailing (dp) [Entry date 04/26/00]

4/26/00 141 ORDER by Judge Nancy G. Edmunds granting in part and denying in part motion in limine [139-1], setting deadline for defendants to file motion for summary judgment for 5/5/00, setting deadline for response to filed motion for summary judgment by plaintiffs for 05/26/00, setting deadline for defendants to file reply to response to motion for summary judgment for 06/05/00, setting hearing on motion to dismiss monetary damage claims [137-1], motion to strike plaintiff's jury demand [137-2], motion for the Court to determine that the only defendants are the MDOC and its director [137-3] and motion for a view of sample Michigan Department of Corrections facilities by Court [136-1] for 2:00 p.m. on 6/21/00, setting final pretrial conference for 10:00 a.m. on 7/5/00 and setting civil jury trial for 9:00 a.m. on 7/6/00; with proof of mailing [EOD Date 5/2/00] (dp) [Entry date 05/02/00]

4/28/00 138 PROOF of mailing of defendants' proposed trial exhibits. (cf) [Entry date 05/01/00]

5/1/00 140 PROOF of mailing of plaintiff's supplemental interrogatories and requests for production of documents (nh) [Entry date 05/02/00]

5/1/00 142 LETTER by defendant's, regarding expert witnesses (nh) [Entry date 05/02/00]

5/1/00 143 LETTER by defendant's, regarding acknowledgement of complaint and addition of defendant Dan Bolden (nh) [Entry date 05/02/00]

5/2/00 139 PROPOSED pretrial statement; filed by defendants; with attachment and proof of mailing [EOD Date: 5/2/00] (dp) [Entry date 05/02/00]

5/2/00 139 MOTION by defendants in limine with brief (dp) [Entry date 05/02/00]

5/5/00 144 MOTION by defendants MI Dept Corr and Kenneth McGinnis for summary judgment with brief and proof of mailing (cm) [Entry date 05/08/00]

5/8/00 145 ANSWER by defendants to plaintiff's proposed stipulation of facts with proof of mailing (cm) [Entry date 05/09/00]

5/12/00 146 ORDER by Judge Nancy G. Edmunds, setting hearing on motion for summary judgment by Kenneth McGinnis, MI Dept Corr [144-1] for 2:00 6/21/00 with proof of mailing [EOD Date 5/15/00] (LS) [Entry date 05/15/00]

5/15/00 -- TELE-CONFERENCE held - Judge Nancy G. Edmunds (ch) [Entry date 05/15/00]

5/16/00 147 ORDER by Judge Nancy G. Edmunds regarding exchange of trial exhibits, writs of habeas corpus testificandum, and offer of proof concerning recharacterization of expert witnesses as fact witnesses with proof of mailing [EOD Date 5/17/00] (cm) [Entry date 05/17/00]

5/18/00 148 PROOF of mailing of plaintiffs' proposed exhibits (cm) [Entry date 05/19/00]

5/25/00 149 ORDER by Judge Nancy G. Edmunds establishing trailing trial docket for the month of July 2000, commencing on 9:00 a.m. on 7/5/00; with proof of mailing [EOD Date 5/26/00] (dp) [Entry date 05/26/00]

5/26/00 150 PROOF of mailing by defendant of response to interrogatories and request (supplemental) with attachments (cm) [Entry date 05/30/00]

5/26/00 151 ORDER by Judge Nancy G. Edmunds, amending order [147-1] regarding writs of habeas corpus testificandum [EOD Date 5/30/00] (cm) [Entry date 05/30/00]

5/26/00 152 MOTION by plaintiff to file oversize brief in excess of the page limit with proof of mailing (nh) [Entry date 06/01/00]

5/26/00 153 OFFER of proof on lay witnesses and objections to limitations of expert testimony by plaintiff's with proof of mailing (nh) [Entry date 06/01/00]

5/26/00 154 RESPONSE by plaintiff's to motion for summary judgment by Kenneth McGinnis, MI Dept Corr [144-1] with exhibits 1-3 and proof of mailing (nh) [Entry date 06/01/00]

5/26/00 155 RESPONSE by plaintiff's to motion to dismiss monetary damage claims [137-1], motion to strike plaintiff's jury demand [137-2], and motion for the Court to determine that the only defendants are the MDOC and its director by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [137-3] with exhibits 1-2 and proof of mailing (nh) [Entry date 06/01/00]

5/31/00 156 PETITION by plaintiffs for writ of habeas corpus for Kim Valkoun, Joseph Corsetti, Toni Bunton and Diane Spencer to appear for trial (LS) [Entry date 06/05/00]

5/31/00 157 PETITION by plaintiff for writ of habeas corpus as to Stacy Barker, Catherine Shanks, Paul Young, Louis Perez, Jr, and Jimmy Carter for trial (LS) [Entry date 06/05/00]

5/31/00 158 PETITION by plaintiffs for writ of habeas corpus as to Kim Staton, Jeffrey Smith, Gladys Wilson, Pamela Boyd, Rhonda Hill and Duane Wolfgang for trial (LS) [Entry date 06/05/00] [Edit date 06/05/00]

6/1/00 163 REPLY by defendants to response to motion to dismiss monetary damage claims by Kenneth McGinnis, MI Dept Corr, Dan Marjorie VanOchten [137-1] with proof of mailing (lg) [Entry date 06/08/00]

6/2/00 159 MOTION by plaintiffs to compel discovery response with brief, attachments and proof of mailing (kg) [Entry date 06/06/00]

6/5/00 160 RESPONS by defendants to remark [153-1] with attachment and proof of mailing (kg) [Entry date 06/06/00]

6/6/00 161 ORDER by Judge Nancy G. Edmunds, setting deadline for oral argument for 2:00 pm on 6/21/00 [EOD Date 6/7/00] (lg) [Entry date 06/07/00]

6/6/00 162 ORDER by Judge Nancy G. Edmunds granting motion to file oversize brief in excess of the page

limit by plaintiffs [152-1], setting hearing on motion compel discovery response by plaintiffs [159-1] for 2:00 pm on 6/14/00, and setting deadline for reply to response to motion for summary judgment by Kenneth McGinnis, MI Dept Corr [144-1] for 6/12/00 [EOD Date 6/7/00] (lg) [Entry date 06/07/00]

6/7/00 164 RESPONSE by defendant to motion to compel discovery response by plaintiffs [159-1] with attachments and proof of mailing (lg) [Entry date 06/08/00]

6/8/00 165 TRANSCRIPT taken on 07/01/98 of motion hearing (motion to reinstate) (dp) [Entry date 06/09/00]

6/8/00 166 REPLY by plaintiffs to response to motion to compel discovery response [159-1] with attachments and proof of mailing (dp) [Entry date 06/12/00]

6/13/00 167 REPLY by defendants Kenneth McGinnis and MI Dept Corr to response to, and in support of, motion for summary judgment [144-1] with attachments 1-2 and proof of mailing (dp) [Entry date 06/14/00]

6/14/00 -- MOTION hearing held on motion to compel discovery response by plaintiffs [159-1] - disposition: granted in part denied in part - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 06/14/00]

6/14/00 168 ORDER by Judge Nancy G. Edmunds, for plaintiffs to show cause why fifth and ninth amendment claims should not be dismissed;

order to plaintiffs and defendants to show cause why the defendants sued in their individaul capacity should or should be dismissed based on qualified immunity [EOD Date 6/16/00] (lg) [Entry date 06/16/00]

6/15/00 169 ORDER by Judge Nancy G. Edmunds granting in part and denying in part motion to compel discovery response by plaintiffs [159-1] [EOD Date 6/16/00] (lg) [Entry date 06/16/00]

6/16/00 -- TELE-CONFERENCE held - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 06/16/00]

6/19/00 170 AFFIDAVIT of Pam Nelson, with attachments and proof of mailing (kg) [Entry date 06/20/00]

6/19/00 171 SUPPLEMENTAL brief by plaintiffs to motion response by plaintiffs [154-1] with proof of mailing (kg) [Entry date 06/20/00]

6/20/00 -- TELE-CONFERENCE held - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 06/20/00]

6/21/00 172 SUPPLEMENTAL brief by defendant MI Dept Corr response reply by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [163-1] with attachments and proof of mailing (kg) [Entry date 06/22/00]

6/22/00 173 MEMORANDUM opinion and order by Judge Nancy G. Edmunds denying motion for summary judgment by Kenneth McGinnis, MI Dept Corr [144-1] with proof of mailing [EOD Date: 6/23/00] (kg) [Entry date 06/23/00]

6/22/00 174 ORDER by Judge Nancy G. Edmunds, granting in part and denying in part defendants' oral motion to modify 6/14/00 discovery order with proof of mailing [EOD Date 6/23/00] (kg) [Entry date 06/23/00]

6/29/00 175 MOTION by defendants to adjourn trial date of July 25, 2000 with brief and proof of mailing (dp) [Entry date 06/30/00]

7/3/00 176 MOTION by plaintiff for sanctions for failure to comply with discovery order with brief and proof of mailing (lg) [Entry date 07/05/00]

7/3/00 177 ORDER by Judge Nancy G. Edmunds satisfying order for plaintiffs to show cause why fifth and ninth amendment claims should not be dismissed; order to plaintiffs and defendants to show cause why the defendants sued in their individaul capacity should or should be dismissed based on qualified immunity [168-1], [168-2] granting motion to dismiss monetary damage claims by McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [137-1], granting motion to strike plaintiff's jury demand by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [137-2] denying motion for a view of sample Michigan Department of Corrections facilities by Court by plaintiffs [136-1] [EOD Date 7/5/00] (lg) [Entry date 07/05/00]

7/10/00 178 APPEARANCE for plaintiffs' of attorney Patricia A. Streeter with proof of mailing. (cf) [Entry date 07/10/00]

7/10/00 -- FINAL pretrial conference held and continued to 10:00 8/14/00 - Judge Nancy G. Edmunds (ch) [Entry date 07/10/00]

7/11/00 179 ORDER by Judge Nancy G. Edmunds granting motion to adjourn trial date of July 25, 2000 by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [175-1], setting civil jury trial for 9:00 9/7/00, setting final pretrial conference for 10:00 8/14/00, setting hearing on motion for sanctions for failure to comply with discovery order by plaintiffs [176-1] for 10:00 8/14/00, setting deadline for plaintiffs to identify the remaining five prisoner witnesses for 7/26/00, setting deadline for joint final pretrial order for 8/11/00 with proof of mailing. [EOD Date 7/11/00] (cf) [Entry date 07/11/00]

7/12/00 180 ORDER by Judge Nancy G. Edmunds setting trailing trial docket commencing at 9:00 a.m. on 9/5/00; with proof of mailing [EOD Date 7/13/00] (dp) [Entry date 07/13/00]

7/12/00 181 TRANSCRIPT taken on 06/14/00 of motion hearing (dp) [Entry date 07/13/00]

7/18/00 182 MOTION by defendants to extend time to respond to plaintiff's motion to compel with brief and proof of mailing (LS) [Entry date 07/19/00]

7/19/00 183 ORDER by Judge Nancy G. Edmunds granting in part motion to extend time to respond to plaintiff's motion to compel by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [182-1], and setting deadline for response for 7/28/00 [EOD Date 7/20/00] (cm) [Entry date 07/20/00]

7/26/00 184 RESPONSE by defendant to motion for sanctions for failure to comply with discovery order by plaintiffs' [176-1] with exhibits 1-3 and proof of mailing (nh) [Entry date 07/27/00]

7/31/00 185 MOTION by plaintiffs in limine to clarify expert testimony with brief, attachments and proof of mailing (dp) [Entry date 08/01/00] [Edit date 08/01/00]

8/2/00 186 ORDER by Judge Nancy G. Edmunds setting hearing on motion in limine to clarify expert testimony by plaintiffs [185-1] for 10:00 a.m. on 8/14/00; with proof of mailing [EOD Date 8/3/00] (dp) [Entry date 08/03/00]

8/3/00 187 REPLY by plaintiffs to response to motion for sanctions for failure to comply with discovery order [176-1] with attachment and proof of mailing (dp) [Entry date 08/04/00]

8/3/00 188 PROOF of mailing by plaintiffs of notice of taking deposition of Joyce Dixson, Penny Ryder, Rosemary Sarri and Sandra Girard; with attachments (dp) [Entry date 08/04/00]

8/11/00 189 RESPONSE by defendant MI Dept Corr to motion in limine to clarify expert testimony by plaintiffs [185-1] with proof of mailing (kg) [Entry date 08/14/00]

8/11/00 190 REPLY by plaintiff to response to motion in limine to clarify expert testimony by plaintiffs [185-1] with proof of mailing (kg) [Entry date 08/14/00]

8/14/00 -- MOTION hearing held on motion in limine to clarify expert testimony by plaintiffs [185-1] - disposition: taken under advisement - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 08/14/00]

8/14/00 -- MOTION hearing held on motion for sanctions for failure to comply with discovery order by plaintiffs [176-1] - disposition: granted - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 08/14/00]

8/14/00 191 LETTER by plaintiffs regarding lack of response by defendants, with attachments (kg) [Entry date 08/14/00]

8/14/00 192 SECOND amended revised proposed pretrial statement by defendants, with attachment and proof of mailing [EOD Date: 8/14/00] (kg) [Entry date 08/14/00]

8/14/00 193 ORDER by Judge Nancy G. Edmunds held, granting in part and denying in part motion for sanctions for failure to comply with discovery order by plaintiffs [176-1] [EOD Date 8/15/00] (kg) [Entry date 08/15/00]

8/15/00 194 TRANSCRIPT taken on 6/16/00 of telephonic conference (kg) [Entry date 08/15/00]

8/15/00 195 TRANSCRIPT taken on 6/20/00 of telephonic conference (kg) [Entry date 08/15/00]

8/16/00 196 TRANSCRIPT taken on 6/21/00 of motion hearing via telephone conference (kg) [Entry date 08/17/00]

8/21/00 197 ORDER by Judge Nancy G. Edmunds clarifying language of issued writs; with proof of mailing; see order for complete provisions [EOD Date 8/22/00] (dp) [Entry date 08/22/00]

8/23/00 198 PROOF of mailing of defendants' notice of deposition and subpoena for Suellyn Scarnecchia; and defendant's notice of telephone deposition for Terry Kupers (nh) [Entry date 08/28/00]

8/28/00 199 PROOF of mailing by defendants of notice of deposition of Barry Mintzes with subpoena (cm) [Entry date 08/30/00]

8/28/00 200 PROOF of mailing by defendants of amended notice of deposition of Terry Kupers with subpoena (cm) [Entry date 08/30/00]

9/1/00 201 MOTION by plaintiffs in limine regarding defendant's proposed trial exhibits, prisoner witness contacts with cousnel and sequrestration of witnessess with brief, attachments and proof of mailing (lg) [Entry date 09/05/00]

9/5/00 202 MOTION by defendants in limine to exclude certain plaintiffs exhibit with attachments and proof of mailing (lg) [Entry date 09/06/00]

9/5/00 203 NOTICE by defendants of taking deposition of Barry Mintzes on 9/6/00 at 6:00 pm with proof of mailing (lg) [Entry date 09/06/00]

9/5/00 204 TRIAL brief by plaintiffs with proof of mailing (lg) [Entry date 09/06/00]

9/5/00	205	MOTION by defendants in limine to exclude lay witnesses with exhibits and proof of mailing (lg) [Entry date 09/06/00]
9/5/00	206	AMENDED RESPONSE in opposition by defendants to motion in limine to clarify expert testimony by plaintiffs [185-1] with exhibits and proof of mailing (lg) [Entry date 09/06/00]
9/6/00	207	JOINT final pretrial order by Judge Nancy G. Edmunds (dp) [Entry date 09/07/00]
9/6/00	208	TRIAL brief by defendants Marjorie VanOchten, Dan Bolden, MI Dept Corr and Kenneth McGinnis (dp) [Entry date 09/07/00]
9/6/00	209	AFFIDAVIT of Kenneth McGinnis; filed by defendants (dp) [Entry date 09/07/00]
9/6/00	210	PROOF of mailing by defendants of documents 208 and 209 (dp) [Entry date 09/07/00]
9/6/00	--	TELE-CONFERENCE held - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/07/00]
9/7/00	--	CIVIL non-jury trial begun and continued to 9:00 9/8/00 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/07/00]
9/8/00	--	CIVIL non-jury trial held and continued to 9:30 9/11/00 - Judge Nancy G. Edmunds - Court Reporter: Larry Przybysz (ch) [Entry date 09/08/00]

9/11/00	--	CIVIL non-jury trial held and continued to 9:30 9/12/00 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/11/00]
9/12/00	--	CIVIL non-jury trial held and continued to 9:30 9/13/00 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/12/00]
9/13/00	--	CIVIL non-jury trial held and continued to 9:00 9/14/00 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/14/00]
9/14/00	--	CIVIL non-jury trial held and continued to 9:00 9/15/00 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/14/00]
9/14/00	211	ORDER and findings by Judge Nancy G. Edmunds that Stacey Barker, in custody at Oakland County Jail, Pontiac, MI appeal in court on 9/15/00 at 10:00 a.m.. [EOD Date 9/15/00] (cf) [Entry date 09/15/00]
9/15/00	--	CIVIL non-jury trial held and continued to 10:00 9/18/00 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/15/00]
9/18/00	--	CIVIL non-jury trial held and continued to 9:30 9/19/00 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/18/00]

9/19/00 -- CIVIL non-jury trial held and continued to 10:00 11/6/00 - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/19/00]

9/20/00 212 TRANSCRIPT taken on August 14, 2000 of motion for sanctions and motion in limine (cm) [Entry date 09/22/00]

10/20/00 213 MOTION by defendants' to enlarge time for filing findings of fact and conclusions of law with brief and proof of mailing. (cf) [Entry date 10/24/00]

10/23/00 215 ORDER by Judge Nancy G. Edmunds granting motion to enlarge time for filing findings of fact and conclusions of law by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [213-1] and extending deadline to 11/17/00, setting deadline for closing arguments for 10:00 11/28/00 [EOD Date 11/8/00] (nh) [Entry date 11/08/00]

11/3/00 214 NOTICE by Michael Barnhart counsel for plaintiff of change of address with proof of mailing (LS) [Entry date 11/08/00]

11/17/00 216 MOTION and brief by MI Dept Corr and Bill Martin to expand the record with affidavit and attachments 1-7 (LS) [Entry date 11/27/00] [Edit date 11/27/00]

11/17/00 217 PROPOSED findings of fact and conclusions of law by MI Dept Corr with proof of mailing (LS) [Entry date 11/27/00]

11/17/00 218 PROPOSED findings of fact and conclusions of law by plaintiffs with attachments 1 and 2 and proof of mailing (LS) [Entry date 11/27/00]

11/20/00 219 CORRECTED proposed findings of fact and conclusions of law by plaintiffs with attachments 1-3 and proof of mailing (LS) [Entry date 11/27/00]

11/20/00 220 PROOF of mailing by defendants of motion to expand the record (LS) [Entry date 11/27/00]

11/21/00 221 CORRECTED proposed findings of fact and conclusions of law by defendants (nh) [Entry date 12/01/00]

11/22/00 222 RESPONSE by plaintiff to motion to expand the record by MI Dept Corr [216-1] with attachment and proof of mailing (nh) [Entry date 12/05/00]

11/29/00 223 ORDER by Judge Nancy G. Edmunds denying motion to expand the record by MI Dept Corr [216-1] with proof of mailing. [EOD Date 12/5/00] (cf) [Entry date 12/05/00]

4/10/01 242 MOTION by defendant's MI Dept Corr, and Kenneth McGinnis to hold this matter in abeyance with exhibits 1-2 and proof of mailing (nh) [Entry date 05/16/01]

4/12/01 224 RESPONSE by plaintiffs in opposition to defendants' motion to hold this matter in abeyance with proof of mailing (cm) [Entry date 04/16/01]

4/12/01 225 ORDER by Judge Nancy G. Edmunds denying defendant's motion to hold this matter in

abeyance [EOD Date 4/16/01] (cm) [Entry date 04/16/01]

4/19/01 226 FINDINGS of fact and conclusions of law by Judge Nancy G. Edmunds (nh) [Entry date 04/20/01]

4/24/01 227 TRANSCRIPT taken on 9/8/00 of trial before Judge Edmunds. (cf) [Entry date 04/24/01]

4/24/01 228 TRANSCRIPT taken on 9/11/00 of bench trial - Volume 3 before Judge Edmunds. (cf) [Entry date 04/24/01]

4/24/01 229 TRANSCRIPT taken on 9/12/00 of bench trial - Volume 4 before Judge Edmunds. (cf) [Entry date 04/24/01]

4/24/01 230 TRANSCRIPT taken on 9/13/00 of bench trial - Volume 5 before Judge Edmunds. (cf) [Entry date 04/24/01]

4/24/01 231 TRANSCRIPT taken on 9/15/00 of bench trial - Volume 7 before Judge Edmunds. (cf) [Entry date 04/24/01]

4/24/01 232 TRANSCRIPT taken on 9/18/00 of bench trial - Volume 8 before Judge Edmunds. (cf) [Entry date 04/24/01]

4/24/01 233 TRANSCRIPT taken on 9/19/00 of bench trial - Volume 9 before Judge Edmunds. (cf) [Entry date 04/24/01]

4/25/01 234 JUDGMENT entered by Judge Nancy G. Edmunds for plaintiffs and against defendants

with proof of mailing. [EOD Date: 4/26/01] (cf) [Entry date 04/26/01]

4/30/01 237 APPEAL by defendants Marjorie VanOchten, Dan Bolden, MI Dept Corr and Kenneth McGinnis of order [234-1] to USCA with proof of service - FEE: PAID - Receipt #: 417332 (do) [Entry date 05/09/01]

5/3/01 235 MOTION by defendants to stay enforcement of judgment with brief, attachments and proof of mailing (cm) [Entry date 05/09/01]

5/4/01 236 RESPONSE by plaintiffs in opposition to motion to stay enforcement of judgment [235-1] with brief, exhibit A and proof of mailing (cm) [Entry date 05/09/01]

5/7/01 240 ORDER by Judge Nancy G. Edmunds, setting hearing on motion to stay enforcement of judgment by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [235-1] for 1:30 5/8/01 [EOD Date 5/9/01] (cm) [Entry date 05/09/01]

5/8/01 241 CORRECTED order by Judge Nancy G. Edmunds setting hearing on motion to stay enforcement of judgment by Kenneth McGinnis, MI Dept Corr, Dan Bolden and Marjorie VanOchten [235-1] for 1:30 p.m. on 5/15/01; with proof of mailing [EOD Date 5/10/01] (dp) [Entry date 05/10/01]

5/9/01 238 PROOF of mailing of notice of appeal to USCA and counsel of record (do) [Entry date 05/09/01]

5/9/01 239 CERTIFIED copy of appeal notice by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [237-1] and transmitted to USCA (do) [Entry date 05/09/01]

5/15/01 -- MOTION hearing held on motion to stay enforcement of judgment by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [235-1] - disposition: denied - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 05/16/01]

5/15/01 243 ORDER by Judge Nancy G. Edmunds denying motion to stay enforcement of judgment by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [235-1] with proof of mailing [EOD Date 5/22/01] (cm) [Entry date 05/22/01]

5/22/01 244 ACKNOWLEDGEMENT from USCA of receipt of appeal notice of appeal & docket [239-1] - appeal case # 01-1635 (nh) [Entry date 05/30/01]

5/22/01 245 CERTIFIED copy of order from USCA granting case [0-0] - appeal case # 01-1635 (nh) [Entry date 05/30/01]

5/23/01 246 TRANSCRIPT taken on 5/15/01 of Motion to Stay (nh) [Entry date 05/30/01]

5/25/01 247 ORDER by Judge Nancy G. Edmunds with stipulation, regarding submission of plaintiff's attorneys fees and costs [EOD Date: 5/30/01] (nh) [Entry date 05/30/01]

5/25/01 248 TRANSCRIPT order form by defendant's regarding appeal notice by Marjorie VanOchten,

Dan Bolden, MI Dept Corr, Kenneth McGinnis [237-1] requesting transcript(s) (nh) [Entry date 05/30/01]

6/19/01 249 NON-CERTIFIED copy of order from USCA denying plaintiff's motion to review and dissolve May 18 stay; defendants' motion for stay is granted; District Court's judgment is stayed pending disposition of defendants' appeal - appeal case # 01-1635 (dp) [Entry date 06/20/01]

6/25/01 250 MOTION by plaintiffs for attorney fees with brief, attachments and proof of mailing (kg) [Entry date 06/26/01]

6/29/01 251 STIPULATION by defendants and plaintiffs to extend time to respond to motion for attorney fees [EOD Date: 7/2/01] (kg) [Entry date 07/02/01]

7/6/01 252 ORDER by Judge Nancy G. Edmunds granting stipulation to extend time to respond to motion for attorney fees by plaintiffs and defendants [251-1] [251-2]; response time extended by 30 days [EOD Date 7/9/01] (jg) [Entry date 07/09/01]

7/11/01 253 CORRECTED brief by plaintiff in support of motion for attorney fees [250-1] with exhibits A-E (nh) [Entry date 07/12/01]

7/18/01 254 TRANSCRIPT taken on 09/06/00 of telephone conference call (dp) [Entry date 07/19/01]

7/18/01 255 TRANSCRIPT taken on 09/07/00 of bench trial (vol. I) (dp) [Entry date 07/19/01]

7/18/01 256 TRANSCRIPT taken on 09/14/00 of bench trial (vol. VI) (dp) [Entry date 07/19/01]

8/7/01 257 MOTION and brief by defendants' to hold in abeyance plaintiffs' motion for attorney fees with proof of mailing. (cf) [Entry date 08/08/01]

8/8/01 258 RESPONSE by defendants, Bill Marting and MI Dept Corr, in opposition to motion for attorney fees by plaintiffs [50-1] with proof of mailing (jg) [Entry date 08/09/01]

8/20/01 259 RESPONSE by Valerie Bunton, Susan Fair, Tamara Prude, Alesia Butler, Adrienne Branaugh, Shante Allen, Debra King, Toni Bunton, Michelle Bazzetta, Arturo Bunton, and Stacy Barker to motion and brief to hold in abeyance plaintiffs' motion for attorney fees by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [257-1] with proof of mailing. (cf) [Entry date 08/21/01]

8/21/01 260 ORDER by Judge Nancy G. Edmunds granting motion to hold in abeyance plaintiffs' motion for attorney fees by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [257-1] with proof of mailing. [EOD Date 8/22/01] (cf) [Entry date 08/22/01]

8/22/01 261 MOTION (expedited) by plaintiffs for clarification of order with brief and attachments 1 and 2 (LS) [Entry date 08/24/01]

8/22/01 262 NOTICE by plaintiffs of setting hearing on motion for clarification of order by plaintiffss [261-1] for 2:00 9/5/01 (LS) [Entry date 08/24/01]

8/22/01 263 PROOF of mailing by plaintiffs of pleadings 261-263 (LS) [Entry date 08/24/01]

8/28/01 264 CORRECTED EXPEDITED MOTION by plaintiffs to clarify record with proof of mailing (lg) [Entry date 08/29/01]

8/28/01 265 TRIAL EXHIBITS filed vol. 1 - defendants' exhibits 1-10 (lg) [Entry date 08/29/01] [Edit date 08/29/01]

8/28/01 266 TRIAL EXHIBITS filed vol. 2 - defendants' exhibits 11-15 (lg) [Entry date 08/29/01] [Edit date 08/29/01]

8/28/01 267 TRIAL EXHIBITS filed vol. 3 - defendants' exhibits 16-38 (lg) [Entry date 08/29/01] [Edit date 08/29/01]

8/28/01 268 TRIAL EXHIBITS filed vol. 4 - plaintiffs' exhibits 42-62 (lg) [Entry date 08/29/01] [Edit date 08/29/01]

8/28/01 269 TRIAL EXHIBITS filed vol. 1 - plaintiffs' exhibits 1-39 (lg) [Entry date 08/29/01] [Edit date 08/29/01]

8/28/01 270 TRIAL EXHIBITS filed vol. 2 - plaintiffs' exhibit 40 (part 1) (lg) [Entry date 08/29/01] [Edit date 08/29/01]

8/28/01 271 TRIAL EXHIBITS filed vol. 3 - plaintiffs' exhibit 40 (part 2) (lg) [Entry date 08/29/01] [Edit date 08/29/01]

8/31/01 272 RESPONSE by defendants Kenneth McGinnis and MI Dept Corr in opposition to motion to clarify record by plaintiffs [264-1]; with attachments 1-3 and proof of mailing (dp) [Entry date 09/04/01]

9/4/01 273 AFFIDAVIT of Amy Reed; filed by defendants; with proof of mailing (dp) [Entry date 09/05/01]

9/5/01 -- MOTION hearing held on motion to clarify record by plaintiffs [264-1], motion for clarification of order by plaintiffs [261-1] - disposition: stipulated to in part- denied in part - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 09/06/01]

9/6/01 274 ORDER by Judge Nancy G. Edmunds granting in part and denying in part motion to clarify record by plaintiffs [264-1]; plaintiffs' motion as to exhibit 39 granted and plaintiffs' motion as to plaintiffs' exhibit 40 and defendants' exhibit 12 denied as moot (see order for complete provisions) [EOD Date 9/7/01] (dp) [Entry date 09/07/01]

9/7/01 275 TRANSCRIPT taken on September 5, 2001 of motion to clarify record (cm) [Entry date 09/10/01]

9/11/01 276 LETTER (copy) from Suzanne Jacques, court reporter, regarding transcripts (indicating that the 4/25/00 and 7/10/00 final pretrial transcripts are not on the record) (cf) [Entry date 09/13/01] [Edit date 09/13/01]

9/12/01 277 LETTER from Suzanne Jacques, court reporter, to Amy Reed, Michigan Attorney General's

Office, regarding the telephonic conference call held on 5/15/00 was not on the record (cf) [Entry date 09/13/01] [Edit date 09/13/01]

9/12/01 278 TRANSCRIPT taken on 11/28/00 of bench trial before Judge Edmunds. (cf) [Entry date 09/13/01]

9/13/01 279 NOTICE by plaintiffs of filing corrected trial exhibits with proof of mailing (lg) [Entry date 09/14/01]

9/13/01 280 TRIAL EXHIBIT index filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 281 EXHIBITS 38 filed by plaintiffs (lg) [Entry date 09/14/01] [Edit date 10/05/01]

9/13/01 282 EXHIBITS 34 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 283 EXHIBITS 18 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 284 EXHIBIT 46 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 285 EXHIBIT 20 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 286 EXHIBIT 55 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 287 EXHIBIT 11 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 288 EXHIBIT 10 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 289 EXHIBIT 6 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 290 EXHIBIT 2 filed by plaintiffs (lg) [Entry date 09/14/01]

9/13/01 291 TRIAL EXHIBITS vol II filed by plaintiffs - plaintiffs exhibit 40 (part 1 of 2) (lg) [Entry date 09/14/01] [Edit date 10/05/01]

9/13/01 292 TRIAL EXHIBITS vol III filed by plaintiffs - plaintiffs exhibit 40 (part 2 of 2) (lg) [Entry date 09/14/01] [Edit date 10/05/01]

9/13/01 293 EXHIBIT 9 filed by plaintiffs (dp) [Entry date 09/14/01]

10/4/01 294 PROPOSED TRIAL EXHIBITS Volume 1 of 3 (original submitted to the court on August 14, 2000) filed by MI Dept Corr (ep) [Entry date 10/04/01]

10/4/01 295 PROPOSED TRIAL EXHIBITS Volume 2 of 3 (originally submitted to the court on August 14, 2000) filed by MI Dept Corr (ep) [Entry date 10/04/01]

10/4/01 296 PROPOSED TRIAL EXHIBITS volume 3 of 3 (originally submitted to the court on August 14, 2000) filed by MI Dept Corr (ep) [Entry date 10/04/01]

10/4/01 297 LETTER from the Special Assistant Attorney General's Office in support of the proposed

exhibits #294 through #296. (ep) [Entry date 10/04/01] [Edit date 10/04/01]

4/18/02 298 SLIP opinion from USCA affirming the decision of the District Court - appeal case # 01-1635 (lg) [Entry date 04/19/02]

4/18/02 299 NON-CERTIFIED copy of order from USCA affirming the decision of the District Court - appeal case # 01-1635 (lg) [Entry date 04/19/02]

5/7/02 300 NOTICE by court of setting civil status conference for 10:00 on 5/16/02 with proof of service (kg) [Entry date 05/08/02]

5/8/02 301 MANDATE from USCA affirming the decision of the District Court - appeal case #01-1635 (kg) [Entry date 05/09/02]

5/15/02 302 NOTICE by Patricia Streeter, attorney for plaintiffs of change of address; proof of service (jg) [Entry date 05/16/02]

5/16/02 -- STATUS conference held - Judge Nancy G. Edmunds- court reporter- Suzanne Jacques (ch) [Entry date 05/16/02]

5/16/02 303 ORDER by Judge Nancy G. Edmunds of compliance regarding visitation (see order for details) [EOD Date 5/17/02] (jg) [Entry date 05/17/02]

5/16/02 304 DECLARATION of James P. Schratz in support of defendants' opposition to plaintiff' motion for attorney fees and costs; with exhibits 1-4 and proof of service (jg) [Entry date 05/17/02]

5/21/02 305 LETTER by Michigan Attorney General's office regarding the May 16, 2002 court order with copies of Director's Office Memorandum 2002-17 and Notice to all Prisoners regarding Changes in Visiting attached (jg) [Entry date 05/22/02]

5/21/02 306 TRANSCRIPT taken on May 16, 2002 of Status Conference (jg) [Entry date 05/22/02]

5/28/02 307 NOTICE of setting hearing on motion for attorney fees by plaintiffs [250-1] for 10:00 on 7/23/02; proof of service (jg) [Entry date 05/29/02]

6/4/02 308 MOTION by plaintiffs to advance discovery response time and for expedited consideration with attachments and proof of service (cm) [Entry date 06/06/02]

6/4/02 309 APPEAL by defendants Marjorie VanOchten, Dan Bolden, MI Dept Corr and Kenneth McGinnis of order [303-1] to USCA with proof of service - FEE: not paid (do) [Entry date 06/06/02]

6/6/02 310 PROOF of service of appeal notice [309-1] to USCA and counsel of record (do) [Entry date 06/06/02]

6/6/02 311 CERTIFIED copy of appeal notice by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [309-1] and transmitted to USCA (do) [Entry date 06/06/02]

6/7/02 312 RESPONSE in opposition by defendants to motion to advance discovery response time and

for expedited consideration by plaintiffs [308-1] with exhibits 1-3 (nh) [Entry date 06/12/02]

6/13/02 -- TELEPHONIC MOTION hearing continued on motion to advance discovery response time and for expedited consideration by plaintiffs [308-1] to 4:30 6/17/02 - disposition: continued - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 06/13/02]

6/17/02 -- TELEPHONIC MOTION hearing held on motion to advance discovery response time and for expedited consideration by plaintiffs [308-1] - disposition: denied as moot- the court further discussed interim attorney fees and granted plaintiff interim attorney fees- - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 06/18/02]

6/18/02 313 MEMORANDUM by defendants MI Dept Corr and Kenneth McGinnis in opposition to plaintiffs' proposed order regarding attorney fees and costs (nh) [Entry date 06/21/02]

6/18/02 314 ORDER by Judge Nancy G. Edmunds denying motion to advance discovery response time and for expedited consideration by plaintiffs [308-1] [EOD Date 6/21/02] (nh) [Entry date 06/21/02]

6/20/02 315 REPLY by plaintiff to memorandum in opposition to proposed order of interim attorney fees and costs by Kenneth McGinnis, MI Dept Corr [313-1] (nh) [Entry date 06/25/02]

6/25/02 316 ACKNOWLEDGMENT from USCA of receipt of appeal notice by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [309-1]

- appeal case # 02-1756 (nh) [Entry date 06/26/02]

6/27/02 317 ORDER by Judge Nancy G. Edmunds, for payment of interim attorneys fees (see order for details) [EOD Date 6/28/02] (nh) [Entry date 06/28/02]

6/27/02 318 SUPPLEMENTAL request by plaintiffs for fees and costs through May 31, 2002 in support of motion for attorney fees by plaintiffs [250-1] (cm) [Entry date 07/01/02]

7/8/02 319 APPEAL filing fee received from defendants Marjorie VanOchten, Dan Bolden, MI Dept Corr and Kenneth McGinnis for appeal notice [309-1] in the amount of $ 105.00 - Receipt # 440521 - appeal case # 02-1756 (dp) [Entry date 07/09/02]

7/8/02 320 TRANSCRIPT order form by defendants Marjorie VanOchten, Dan Bolden, MI Dept Corr and Kenneth McGinnis regarding appeal notice [309-1] - appeal case # 02-1756 (dp) [Entry date 07/09/02]

7/9/02 321 (STRICKEN 7/17/02) MOTION by movant Ronald Crawford to issue an order to show cause why defendants and/or its agents should not be held in civil contempt of court; with brief, notice of hearing, affidavit, exhibits and proof of service (dp) [Entry date 07/09/02] [Edit date 07/23/02]

7/16/02 322 REPLY by plaintiffs in support of motion for attorney fees by plaintiffs [250-1] with attachments 1-2 and proof of service (cm) [Entry date 07/17/02]

7/16/02 323 SUPPLEMENTAL fees and costs through May 31, 2002 in support of motion for attorney fees by plaintiffs [250-1] with proof of service (cm) [Entry date 07/23/02]

7/17/02 324 ANSWER in opposition by defendants to supplement by plaintiffs [323-1] (cm) [Entry date 07/23/02]

7/17/02 325 ORDER by Judge Nancy G. Edmunds, striking motion to issue an order to show cause why defendants and/or its agents should not be held in civil contempt of court by Ronald Crawford [321-1] [EOD Date 7/23/02] (cm) [Entry date 07/23/02]

7/18/02 326 REPLY by plaintiffs to objections to plaintiff's supplemental fee petition by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [324-1] (cm) [Entry date 07/23/02]

7/23/02 -- MOTION hearing held on motion for attorney fees by plaintiffs [250-1] - disposition: taken under advisement - Judge Nancy G. Edmunds - Court Reporter: Suzanne Jacques (ch) [Entry date 07/23/02]

7/23/02 327 AFFIDAVIT of Leo H. Friedman; filed by defendants (dp) [Entry date 07/24/02]

7/23/02 328 AFFIDAVIT of Mark Matus; filed by defendants (dp) [Entry date 07/24/02]

7/23/02 329 PROOF of service by defendants of [328-1] and [327-1] (dp) [Entry date 07/24/02]

7/26/02 330 AMENDED proof of service by defendants of opposition to plaintiffs' proposed order regarding attorney fees and costs (dp) [Entry date 07/29/02] [Edit date 07/29/02]

7/30/02 331 RESPONSE (reply) by defendants in opposition to motion for attorney fees by plaintiffs [250-1]; with attachments 1-3 and proof of service (dp) [Entry date 07/30/02]

7/30/02 332 NOTICE from the US Supreme Court that a petition for writ of certiorari was filed and placed on the docket (dp) [Entry date 07/31/02]

8/19/02 333 ORDER by Judge Nancy G. Edmunds granting motion for attorney fees by plaintiffs [250-1] [EOD Date 8/22/02] (lg) [Entry date 08/22/02]

8/29/02 334 MOTION by defendants for approval of supersedeas bond with brief, supersedeas Bond and proof of mailing (lg) [Entry date 08/30/02]

8/29/02 335 APPEAL by defendants Marjorie VanOchten, Dan Bolden, MI Dept Corr and Kenneth McGinnis of order [333-1] to USCA with proof of service - FEE: PAID - Receipt #: 443408 (do) [Entry date 09/03/02]

9/3/02 336 PROOF of service of appeal notice [335-1] to USCA, counsel and court reporter of record (do) [Entry date 09/03/02]

9/3/02 337 CERTIFIED copy of appeal notice by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [335-1] and transmitted to USCA (do) [Entry date 09/03/02]

9/5/02 338 ORDER by Judge Nancy G. Edmunds granting motion for approval of supersedeas bond by Kenneth McGinnis, MI Dept Corr, Dan Bolden, Marjorie VanOchten [334-1] [EOD Date 9/9/02] (LS) [Entry date 09/09/02]

9/16/02 339 TRANSCRIPT order form by defendants Marjorie VanOchten, Dan Bolden, MI Dept Corr and Kenneth McGinnis regarding appeal notice [335-1] requesting transcript of: 7/23/02 - appeal case #02-2096 (kg) [Entry date 09/20/02]

9/16/02 340 ACKNOWLEDGMENT from USCA of receipt of appeal notice by defendants Kenneth McGinnis, MI Dept Corr, Dan Bolden and Marjorie VanOchten [335-1] - appeal case #02-2096 (kg) [Entry date 09/20/02]

10/7/02 341 MOTION by defendants MI Dept Corr and William Overton to clarify the record with attachments 1-2 and proof of service (cm) [Entry date 10/08/02]

10/18/02 342 RESPONSE by plaintiffs to motion to clarify the record by MI Dept Corr [341-1] with attachments and proof of service (ew) [Entry date 10/21/02]

11/1/02 343 ORDER by Judge Nancy G. Edmunds denying motion to clarify the record by MI Dept Corr [341-1] with proof of service [EOD Date 11/7/02] (kb) [Entry date 11/07/02]

[END OF DOCKET: 2:95cv73540]

General Docket
US Court of Appeals for the Sixth Circuit

Court of Appeals Docket #: 96-1559 Filed: 5/3/96
Nsuit: 3550 Prisoner: Civil Rights
Bazzetta, et al v. McGinnis, et al
Appeal from: Eastern District of Michigan at Detroit

Case type information:
1) prisoner petition
2) state
3) prisoner civil rights

Lower court information:

District: 0645-2 : 95-73540
Trial Judge: Nancy G. Edmunds, U.S. District Judge
Court Reporter: Suzanne Jacques
Date Filed: 8/31/95
Date order/judgment: 4/10/96
Date NOA filed: 4/17/96

Fee status: paid

Prior cases: None
Current cases:

	Lead	Member	Start	End
Related:				
	95- 2181	96- 1559	5/20/96	10/30/97

MICHELLE BAZZETTA Plaintiff - Appellant	Deborah A. LaBelle FTS 769-2198 313-996-5620 [COR LD NTC ret] Law Offices of Deborah LaBelle 221 N. Main Street

	Suite 300 Ann Arbor, MI 48104
	Michael Barnhart FTS 964-7350 313-964-6520 [COR ret] 719 Griswold Suite 1420, One Kennedy Square Detroit, MI 48226-3315
STACY BARKER Plaintiff - Appellant	Deborah A. LaBelle (See above) [COR LD NTC ret]
	Michael Barnhart (See above) [COR ret]
TONI BUNTON Plaintiff - Appellant	Deborah A. LaBelle (See above) [COR LD NTC ret]
	Michael Barnhart (See above) [COR ret]
DEBRA KING Plaintiff - Appellant	Deborah A. LaBelle (See above) [COR LD NTC ret]
	Michael Barnhart (See above) [COR ret]
SHANTE ALLEN Plaintiff - Appellant	Deborah A. LaBelle (See above)

[COR LD NTC ret]

Michael Barnhart
(See above)
[COR ret]

ADRIENNE BRANAUGH
Plaintiff - Appellant

Deborah A. LaBelle
(See above)
[COR LD NTC ret]

Michael Barnhart
(See above)
[COR ret]

ALESIA BUTLER
Plaintiff - Appellant

Deborah A. LaBelle
(See above)
[COR LD NTC ret]

Michael Barnhart
(See above)
[COR ret]

TAMARA PRUDE
Plaintiff - Appellant

Deborah A. LaBelle
(See above)
[COR LD NTC ret]

Michael Barnhart
(See above)
[COR ret]

SUSAN FAIR
Plaintiff - Appellant

Deborah A. LaBelle
(See above)
[COR LD NTC ret]

Michael Barnhart
(See above)
[COR ret]

VALERIE BUNTON
Plaintiff - Appellant

Deborah A. LaBelle
(See above)
[COR LD NTC ret]

Michael Barnhart
(See above)
[COR ret]

ARTURO BUNTON,
through his Next Friend
Valerie Bunton
Plaintiff - Appellant

Deborah A. LaBelle
(See above)
[COR LD NTC ret]

Michael Barnhart
(See above)
[COR ret]

v.

KENNETH MCGINNIS,
Director, Michigan
Department of Corrections
Defendant - Appellee

George N. Stevenson
FTS 335-7157
517-335-7021
[ret]
Office of the Attorney General
Corrections Division
P.O. Box 30217
Lansing, MI 48909

Kevin M. Thom
FTS 335-7157
517-335-7021
[COR LD NTC ret]
Office of the Attorney General
Corrections Division
P.O. Box 30216
Lansing, MI 48909

MICHIGAN DEPARTMENT OF CORRECTIONS
Defendant - Appellee

George N. Stevenson
(See above)
[ret]

Kevin M. Thom
(See above)
[COR LD NTC ret]

MICHELLE BAZZETTA; STACY BARKER; TONI BUNTON; DEBRA KING; SHANTE ALLEN; ADRIENNE BRONAUGH; ALESIA BUTLER; TAMARA PRUDE; SUSAN FAIR; VALERIE BUNTON; ARTURO ZAVALA, through his Next Friend Valerie Bunton

Plaintiffs - Appellants

v.

KENNETH MCGINNIS, Director, Michigan Department of Corrections; MICHIGAN DEPARTMENT OF CORRECTIONS

Defendants - Appellees

4/16/96 APPENDIX filed by Deborah A. LaBelle for Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton. Copies: 5. Certificate of service date 4/15/96 [96-1559] (ADOPTED FROM CASE NO. 95-2181 PER ORDER OF 9/18/96) (jmb)

5/3/96 Prisoner Case Docketed. Notice filed by Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton. Transcript needed: y (jmb)

5/16/96 TRANSCRIPT ORDER FORM filed by Deborah A. LaBelle for Appellant Arturo Bunton, Appellant Valerie Bunton, Appellant Susan Fair, Appellant Tamara Prude, Appellant Alesia Butler, Appellant Adrienne Branaugh, Appellant Shante Allen, Appellant Debra King, Appellant Toni Bunton, Appellant Stacy Barker, Appellant Michelle Bazzetta: court reporter Suzanne Jacques, transcript ordered on 5/14/96 [96-1559] [1326530-1] response due by 5/28/96 for Suzanne Jacques [96-1559] (blh)

5/16/96 APPEARANCE filed by Attorney Deborah A. LaBelle for Appellant Arturo Bunton, Appellant Valerie Bunton, Appellant Susan Fair, Appellant Tamara Prude, Appellant Alesia Butler, Appellant Adrienne Branaugh, Appellant Shante Allen, Appellant Debra King, Appellant Toni Bunton, Appellant Stacy Barker, Appellant Michelle Bazzetta [96-1559] (jmb)

5/16/96 APPEARANCE filed by Attorney Michael Barnhart for Appellant Arturo Bunton, Appellant Valerie Bunton, Appellant Susan Fair, Appellant Tamara Prude, Appellant Alesia Butler, Appellant Adrienne Branaugh, Appellant Shante Allen, Appellant Debra King, Appellant Toni Bunton,

Appellant Stacy Barker, Appellant Michelle Bazzetta [96-1559] (jmb)

5/20/96 APPEARANCE filed by Attorney Lisa C. Ward for Appellee MDOC, Appellee Kenneth McGinnis [96-1559] (jmb)

5/20/96 STIPULATION filed to consolidate for submission the following cases: 95-2181/96-1559. Stipulation filed by Lisa C. Ward for Appellee MDOC, Appellee Kenneth McGinnis in 96-1559, Deborah A. LaBelle for Appellant Arturo Bunton, Appellant Valerie Bunton, Appellant Susan Fair, Appellant Tamara Prude, Appellant Alesia Butler, Appellant Adrienne Branaugh, Appellant Shante Allen, Appellant Debra King, Appellant Toni Bunton, Appellant Stacy Barker, Appellant Michelle Bazzetta in 96-1559, Lisa C. Ward for Appellee MDOC, Appellee Kenneth McGinnis in 95-2181, Deborah A. LaBelle for Appellant Arturo Bunton, Appellant Valerie Bunton, Appellant Susan Fair, Appellant Tamara Prude, Appellant Alesia Butler, Appellant Adrienne Branaugh, Appellant Shante Allen, Appellant Debra King, Appellant Toni Bunton, Appellant Stacy Barker, Appellant Michelle Bazzetta in 95-2181. (jmb)

5/22/96 TRANSCRIPT ORDER completed by court reporter Suzanne Jacques for Document [1326530-1] transcript involving, Deborah A. LaBelle, Suzanne Jacques. Number of pages: 43 91 vol) filed in DC on 5/21/96. [96-1559] (blh)

5/23/96 BRIEFING LETTER SENT setting briefing schedule: appellant brief due 7/2/96; appellee brief due 8/1/96; appendix due 8/22/96 [96-1559]. (jmb)

6/7/96 ORDER filed granting stipulation to consolidate for submission [1333441-1] filed by Lisa C. Ward, Deborah A. LaBelle, Lisa C. Ward, Deborah A. LaBelle [95-2181, 96-1559] in 95-2181, 96-1559. (jmb)

6/7/96 Miscellaneous letter sent. (jmb)

7/5/96 BRIEF filed by Deborah A. LaBelle for Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton in 96-1559. Copies: 05. Certificate of service date 7/2/96 Number of Pages: 49. [96-1559] (srt)

7/5/96 Request to require oral argument filed by Deborah A. LaBelle for Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton in 96-1559 [96-1559] (srt)

8/2/96 Appellee MOTION filed to extend time to file brief until 8/15/96. Motion filed by Lisa C. Ward for Appellee Kenneth McGinnis, Appellee MDOC in 96-1559. Certificate of service date 8/1/96. [96-1559] (blc)

8/8/96 LETTER SENT by blc granting motion to extend briefing [1370196-1] filed by Lisa C. Ward [96-1559] resetting briefing schedule: appellee brief

now due 8/22/96; appendix now due 9/12/96 [96-1559] (blc)

8/16/96 BRIEF filed by Lisa C. Ward for Appellee Kenneth McGinnis, Appellee MDOC in 96-1559. Copies: 05. Certificate of service date 8/12/96. [96-1559] (srt)

8/16/96 Request to waive oral argument and submit case on the briefs, (waiver on page: 2), filed by Lisa C. Ward for Appellee Kenneth McGinnis, Appellee MDOC in 96-1559 [96-1559] (srt)

8/28/96 Appellant MOTION filed to adopt a joint appendix previously filed in 95-2181 on 4/16/96 [96-1559], to file supplemental appendix. Motion filed by Deborah A. LaBelle for Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton in 96-1559. Certificate of service date 8/26/96 [96-1559] (jmb)

9/18/96 ORDER filed granting motion to adopt a previously filed joint appendix [1383760-1] filed by Deborah A. LaBelle [96-1559], granting motion to file supplemental appendix [1383760-2] filed by Deborah A. LaBelle. Adopting appendix filed in case no. 95-2181. [96-1559]. (jmb)

9/20/96 SUPPLEMENTAL APPENDIX filed by Deborah A. LaBelle for Appellants Adrienne Branaugh, Alesia Butler, Tamara Prude, Susan Fair, Valerie Bunton, Arturo Bunton, Debra King, Shante Allen, Michelle Bazzetta, Stacy Barker, Toni Bunton.

Copies: 5, Certificate of service date 9/12/96 [96-1559] (teb)

12/4/96 Oral argument date set for 2/4/97 in court room 403. Notice of argument sent to counsel. [95-2181, 96-1559] (paw)

12/9/96 Appellant MOTION filed for PARTIAL REMAND (plaintiffs request that this court remand that portion of the district court's Memo & Opinion and Order of 4/9/96 granting dismissal of Plaintiffs' Count V and retain jurisdiction of the remaining issues pending on appeal. [1436267-1]. Motion filed by Deborah A. LaBelle for Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton in 95-2181, Deborah A. LaBelle for Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton in 96-1559. Certificate of service date 12/5/96 [95-2181, 96-1559] (jmb)

12/13/96 Record requested from district court via e-mail on 12/13/96.. (jmb)

12/16/96 Appellee RESPONSE in support filed regarding a motion for partial remand [1436267-1]; previously filed by Deborah A. LaBelle, Deborah A. LaBelle in 95-2181, a motion for miscellaneous relief [1436267-1]; previously filed by Deborah A.

LaBelle, Deborah A. LaBelle in 96-1559. Response from Lisa C. Ward for Appellee Kenneth McGinnis, Appellee MDOC in 95-2181, Lisa C. Ward for Appellee Kenneth McGinnis, Appellee MDOC in 96-1559. Certificate of service date 12/12/96 [95-2181, 96-1559] (jmb)

12/18/96 CERTIFIED RECORD filed. Volumes include 4 Tr; 2 Pl. [95-2181, 96-1559] (rjh)

1/2/97 ORDER filed granting motion to allow amicus curiae to appear [1267908-1] filed by Robert A. Sedler [95-2181, 96-1559] in 95-2181. Entered by order of the court. (jmb)

1/21/97 APPEARANCE filed by Attorney Kevin M. Thom for Appellee Kenneth McGinnis, Appellee MDOC in 95-2181, Kevin M. Thom for Appellee Kenneth McGinnis, Appellee MDOC in 96-1559 [95-2181, 96-1559] (jmb)

2/3/97 ORDER filed denying appellant's motion requesting that this court remand that portion of the dist. ct.'s Memo. & Opn & Order of 4/9/96 granting dismissal of plaintiff's count U and retain juris. of the remaining issues pending on appeal [1436267-1] filed by Deborah A. LaBelle, Deborah A. LaBelle [95-2181, 96-1559] in 95-2181, 96-1559. Entered by order of the court. (jmb)

2/4/97 CAUSE ARGUED on 2/4/97 by Deborah A. LaBelle for Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni

Bunton in 96-1559, Kevin M. Thom for Appellee Kenneth McGinnis, Appellee MDOC in 96-1559 before Judges Siler, Cole, Van Graafeiland. [96-1559] (paw)

2/4/97 FILED : RE#39 (which was omitted from the appendix) from Michael Barnhart for Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton in 95-2181, Michael Barnhart for Appellant Adrienne Branaugh, Appellant Alesia Butler, Appellant Tamara Prude, Appellant Susan Fair, Appellant Valerie Bunton, Appellant Arturo Bunton, Appellant Debra King, Appellant Shante Allen, Appellant Michelle Bazzetta, Appellant Stacy Barker, Appellant Toni Bunton in 96-1559 [95-2181, 96-1559] (jmb)

4/2/97 REPLY filed by Deborah A. LaBelle for appellant's regarding appellees' additional citation. [95-2181, 96-1559] (stb)

9/4/97 OPINION filed: the judgment of the district court is AFFIRMED, therefore, that portion of the appeal directed to the denial of the preliminary injunction motion is moot. Decision for publication pursuant to local rule 24 [95-2181, 96-1559]. Eugene E. Siler, Circuit Judge, R. G. Cole, Circuit Judge, Ellsworth A. Van Graafeiland, Authoring Circuit Judge. (jmb)

9/4/97 JUDGMENT : the judgment of the district court is AFFIRMED, therefore, that portion of the appeal

directed to the denial of the preliminary injunction motion is moot.. (jmb)

9/26/97 MANDATE ISSUED with no cost taxed [96-1559] (eim)

10/31/97 CERTIFIED RECORD RETURNED to lower court at the end of appellate proceedings. [96-1559, 95-2181]. Volumes included: 2 Pl; 4 Tr;. (hrm)

1/5/98 SUPPLEMENTAL OPINION filed for purposes of clarification only. [1652566-1] [96-1559], decision for publication pursuant to local rule 24 [96-1559]. Eugene E. Siler, Circuit Judge, R. G. Cole, Circuit Judge, Ellsworth A. Van Graafeiland, Authoring Circuit Judge. (jmb)

5/14/98 U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellant Michelle Bazzetta. Filed in the Supreme Court on 5/4/98 , Supreme Ct. case number: 97-1800. [96-1559] (max)

7/10/98 U.S. Supreme Court letter filed denying petition for writ of certiorari [1746893-1] filed by Michelle Bazzetta, et al. [96-1559]. Filed in the Supreme Court on 06-26-98. (swh)

Docket as of July 10, 1998 9:32 pm

General Docket
US Court of Appeals for the Sixth Circuit

Court of Appeals Docket #: 01-1635 Filed: 5/15/01
Nsuit: 3550 Prisoner: Civil Rights
Bazzetta, et al, et al v. McGinnis, et al, et al
Appeal from: Eastern District of Michigan at Detroit

- -

Case type information:
1) prisoner petition
2) state
3) prisoner civil rights

- -

Lower court information:

District: 0645-2 : 95-73540
Court Reporter: Suzanne Jacques
Trial Judge: Nancy G. Edmunds, U.S. District Judge
Date Filed: 8/31/95
Date order/judgment: 4/26/01
Date NOA filed: 4/30/01

- -

Fee status: paid

- -

Prior cases:
95-2181 EES RGC EAVG
Date filed: 11/1/95 Date disposed: 9/4/97 Disposition: arg
96-1559 EES RGC EAVG
Date filed: 5/3/96 Date disposed: 9/4/97 Disposition: arg

Current cases:
None

MICHELLE BAZZETTA Plaintiff – Appellee	Michael J. Barnhart FTS 964-7350 313-964-6520 [COR ret] 615 Griswold Suite 925 Ford Building Detroit, MI 48226 Deborah A. LaBelle FTS 769-2196 734-996-5620 [COR LD NTC ret] Law Offices of Deborah LaBelle 221 N. Main Street Suite 300 Ann Arbor, MI 48104 Patricia A. Streeter FTS 962-5908 313-962-1177 [COR ret] 645 Griswold Suite 1717 Penobscot Building Detroit, MI 48226-4101
STACY BARKER Plaintiff - Appellee	Michael J. Barnhart (See above) [COR ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR ret]

TONI BUNTON Plaintiff - Appellee	Michael J. Barnhart (See above) [COR ret] Deborah A. LaBelle (See above) [COR LD NTC ret] Patricia A. Streeter (See above) [COR ret]
v.	
KENNETH MCGINNIS, Director, Defendant – Appellant	Lisa C. Ward, Asst. Attorney Gen FTS 323-0024 517-335-7021 [COR NTC ret] Leo H. Friedman FTS 335-7157 517-335-7021 [COR LD NTC ret] Office of the Attorney General Corrections Division P.O. Box 30217 Lansing, MI 48909 Mark W. Matus FTS 335-7157 517-335-7021 [COR ret] Michigan Department of Attorney General P.O. Box 30217 Suite 300 Lansing, MI 48909

MICHIGAN DEPARTMENT OF CORRECTIONS Defendant – Appellant	Lisa C. Ward, Asst. Attorney Gen. (See above) [COR NTC ret] Leo H. Friedman (See above) [COR LD NTC ret] Mark W. Matus (See above) [COR ret]
SONS AND DAUGHTERS OF THE INCARCERATED Amicus Curiae	Jill M. Wheaton 313-568-6551 [COR LD NTC ret] Dykema Gossett 400 Renaissance Center Suite 3600 Detroit, MI 48243-1668
ACLU FUND OF MICHIGAN Amicus Curiae	Michael J. Steinberg FTS 578-6811 313-578-6814 [COR LD NTC ret] American Civil Liberties Union Fund of Michigan 60 W. Hancock Street Detroit, MI 48201 Kary L. Moss FTS 578-6811 313-578-6814 [COR ret] American Civil Liberties Union Fund of Michigan

	60 W. Hancock Detroit, MI 48201-1342
LEAGUE OF WOMEN VOTERS OF KENTUCKY, League of Women Voters Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret] Kary L. Moss (See above) [COR ret]
MENTAL HEALTH ASSOC Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret] Kary L. Moss (See above) [COR ret]
CATHOLIC DIOCESE OF LANSING Amicus Curiae	Kary L. Moss (See above) [COR ret]
RESTORATIVE JUSTICE MINISTRY Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret] Kary L. Moss (See above) [COR ret]
THE SHALOM CENTER FOR JUSTICE AND PEACE Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret] Kary L. Moss (See above)

	[COR ret]
THE EPISCOPAL CHURCH OF THE INCARNATION Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret]
	Kary L. Moss (See above) [COR ret]
STATE BAR OF MICHIGAN, State Bar of Michigan Prisons and Corrections Section Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret]
	Kary L. Moss (See above) [COR ret]
MICHIGAN PROTECTION AND ADVOCACY SERVICE, INC. Amicus Curiae	Michael J. Steinberg (See above)\ [COR LD NTC ret]
	Kary L. Moss (See above) [COR ret]
FAMILIES AGAINST MANDATORY MINIMUMS FOUNDATION Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret]
	Kary L. Moss (See above) [COR ret]
CRIMINAL DEFENSE ATTORNEYS OF	Michael J. Steinberg (See above)

MICHIGAN Amicus Curiae	[COR LD NTC ret]
	Kary L. Moss (See above) [COR ret]
MICHIGAN COUNCIL ON CRIME AND DELINQUENCY Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret]
	Kary L. Moss (See above) [COR ret]
THE AMERICAN FRIENDS SERVICE COMMITTEE Amicus Curiae	Michael J. Steinberg (See above) [COR LD NTC ret]
	Kary L. Moss (See above) [COR ret]

MICHELLE BAZZETTA, et al.

Plaintiffs - Appellees

v.

KENNETH MCGINNIS, Director of Michigan Department of Corrections; MICHIGAN DEPARTMENT OF CORRECTIONS

Defendants - Appellants

5/15/01 Prisoner Case Docketed. Notice filed by appellants Kenneth McGinnis and Michigan Department of Corrections. Transcript needed: y (stb)

5/18/01 Appellant MOTION filed to stay district court judgment. Motion filed by Lisa C. Ward for appellants MDOC, and Kenneth McGinnis. Certificate of service 5/18/01. *, [01-1635] (stb)

5/18/01 Phone call by case manager to Deborah A. LaBelle for appellees requesting a response to the motion for stay. Response due 5/18/01, 2 p.m. [01-1635]. (stb)

5/18/01 Appellees' RESPONSE in opposition filed regarding a motion to stay district court judgment. Response from Deborah A. LaBelle. Certificate of service 5/18/01. [01-1635] (stb)

5/18/01 ORDER filed temporarily granting appellants' motion to stay district court judgment. [01-1635] Entered by order of the court. (stb)

5/18/01 LETTER SENT TO district court by stb sending a certified copy of order filed 5/18/01. [01-1635] (stb)

5/21/01 Appellee MOTION filed to reconsider order dated 5/18/01. Motion filed by Deborah A. LaBelle for Appellee Toni Bunton, Appellee Stacy Barker, Appellee Michelle Bazzetta. Certificate of service date 5/21/01. [01-1635] (ert)

5/21/01 APPEARANCE filed by Attorney Patricia A. Streeter for appellees Bazzetta, Bunton, Barker [01-1635] (stb)

5/22/01 Appellant RESPONSE in opposition filed regarding appellees motion to reconsider previous order. Response from Lisa C. Ward for appellants MDOC, Kenneth McGinnis. Certificate of service 5/22/01. [01-1635] (stb)

5/23/01 APPEARANCE filed by Attorney Deborah A. LaBelle for appellees [01-1635] (stb)

5/23/01 REPLY filed by Patricia A. Streeter for appellees in response to the appellants' opposition to the motion for reconsideration. [01-1635] (stb)

5/24/01 TRANSCRIPT ORDER FORM filed by Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis: Transcript on file in district court. [01-1635] [2361966-1] (blh)

5/24/01 APPEARANCES filed by attorneys Leo H. Friedman and Mark W. Matus for appellants MDOC and Kenneth McGinnis [01-1635] (stb)

5/24/01 PRE-ARGUMENT STATEMENT filed by Leo H. Friedman for appellants [01-1635] (stb)

5/25/01 BRIEFING LETTER SENT setting schedule: appellant brief 7/6/01; appellee brief 8/7/01; reply 8/21/01; appendix 8/28/01; all final briefs 9/18/01. [01-1635] (stb)

6/4/01 APPEARANCE filed by Attorney Lisa C. Ward for appellants MDOC and McGinnis [01-1635] (stb)

6/8/01 ORDER filed denying appellees' motion to reconsider previous order. The appellants' motion for a stay is granted. Case to be expedited for

briefing and submission. [01-1635] Ralph B. Guy, Alan E. Norris, Ronald L. Gilman (dissenting), Circuit Judges. (stb)

6/8/01 BRIEFING LETTER SENT resetting EXPEDITED schedule (no proofs): appellant brief 7/6/01; appellee brief 8/7/01; reply 8/14/01; appendix 8/21/01. [01-1635] (stb)

6/12/01 Appellee MOTION filed to reconsider order dated 6/8/01. Motion filed by Deborah A. LaBelle for appellees Bazzetta, et al. Certificate of service 6/11/01. [01-1635] (stb)

6/28/01 APPEARANCE filed by Attorney Michael J. Barnhart for appellees Bazzetta, et al [01-1635] (stb)

7/9/01 BRIEF filed by Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis. Copies: 07. Certificate of service date 7/6/01 Number of Pages: 48. [01-1635] (rgf)

7/9/01 Request to require oral argument filed by Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis [01-1635] (rgf)

7/19/01 ORDER filed denying motion for limited reconsideration and in the alternative a request for en banc review [2373188-1] filed by Deborah A. LaBelle [01-1635]. Ralph B. Guy, Alan E. Norris, and Ronald L. Gilman, Circuit Judges. (dtk)

7/30/01 Appellant MOTION filed to extend time to file reply brief. Motion filed by Lisa C. Ward for appellants McGinnis, et al. Certificate of service 7/26/01. [01-1635] (stb)

7/31/01 LETTER SENT by stb granting appellants' motion to extend time to file reply brief. Reply brief now due 8/24/01. [01-1635] (stb)

8/10/01 Attorney LETTER filed regarding dates unavailable for oral argument (9/10-13/01). Letter from Lisa C. Ward. Dated: 8/8/01 [01-1635] (stb)

8/13/01 BRIEF filed by Deborah A. LaBelle for Appellee Toni Bunton, Appellee Stacy Barker, Appellee Michelle Bazzetta. Copies: 07. Certificate of service date 8/7/01. Number of Pages: 49 (13986). [01-1635] (rgf)

8/13/01 Request to require oral argument filed by Deborah A. LaBelle for Appellee Toni Bunton, Appellee Stacy Barker, Appellee Michelle Bazzetta [01-1635] (rgf)

8/14/01 APPEARANCE filed by Attorney Jill M. Wheaton for Amicus Curiae Sons & Daughters [01-1635] (stb)

8/14/01 Amicus MOTION : for leave to allow Sons and Daughters of the Incarderated to become an amicus curiae in support of the appellees. Motion filed by Jill M. Wheaton for Amicus Curiae Sons & Daughters. Certificate of service 8/13/01. [01-1635] (stb)

8/14/01 BRIEF TENDERED. Received from Jill M. Wheaton for Amicus Curiae Sons & Daughters. [01-1635] Certificate of service 8/13/01. (awaiting ruling on motion for leave to participate) (stb)

8/16/01 BRIEFING LETTER SENT requesting brief corrections from Deborah A. LaBelle because typeface; designation incorrect format; pagination;. Corrections due: 8/30/01, resetting briefing schedule: appendix now due 9/20/01. (rgf)

8/16/01 APPEARANCES filed by attorneys Michael J. Steinberg and Mary L. Moss for proposed amici curiae ACLU Fund of MI, et al. [01-1635] (stb)

8/16/01 Amicus MOTION : for leave to participate on behalf of the appellees and for leave to file an oversized brief. Motion filed by Kary L. Moss for proposed amici ACLU of MI, et al. Certificate of service 8/13/01. [01-1635] (stb)

8/16/01 BRIEF TENDERED. Received from Kary L. Moss for proposed amici curiae. [01-1635] Certificate of service 8/13/01. (awaiting ruling on motion for leave to file and oversized) (stb)

8/20/01 Appellant MOTION : to extend time to file appendix. Motion filed by Leo H. Friedman for appellants MDOC, McGinnis. Certificate of service 8/16/01. [01-1635] (stb)

8/21/01 RULING declaring as moot the motion to extend time to file appendix. Deadline already extended in brief correction letter of 8/16. [01-1635] (stb)

8/24/01 Attorney LETTER filed regarding dates unavailable for oral argument (10/18-24; 11/2,5,16). Letter from Deborah A. LaBelle. Dated: 8/22/01. [01-1635] (stb)

8/31/01 APPENDIX filed by Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis.

Copies: 05 - 17 volumes. Certificate of service date 8/30/01 [01-1635] (rgf)

8/31/01 Corrected appellee brief filed by Deborah A. LaBelle. Copies: 07. Certificate of Service date 8/29/01 [01-1635] REPLACES FINALS FILED 08/13/01; 65 pgs (14062) (rgf)

8/31/01 Request to require oral argument filed by Deborah A. LaBelle for Appellee Toni Bunton, Appellee Stacy Barker, Appellee Michelle Bazzetta [01-1635] (rgf)

9/5/01 BRIEFING LETTER SENT requesting appendix corrections from Leo H. Friedman, Mark W. Matus, Lisa C. Ward because cover; incomplete docket entries; items in apx not part of lower court record Reply brief is now due 09/12/01; Corrections due: 9/19/01. (rgf)

9/5/01 Appellant MOTION filed to hold briefing in abeyance pending correction or clarification of the record. Motion filed by Lisa C. Ward for appellants MDOC and Kenneth McGinnis. Certificate of service 9/5/01. [01-1635] (stb)

9/6/01 ORDER filed granting appellants' motion to hold briefing in abeyance pending correction or clarification of the record. [01-1635] (stb)

9/6/01 LETTER SENT by stb to require appellants to file a status report on or before 10/21/01. [01-1635] (stb)

9/6/01 CORRECTED letter sent by stb to require appellants to file a status report on or before 9/12/01. [01-1635] (stb)

9/11/01 STATUS REPORT filed by Deborah A. LaBelle for appellees Bazzetta, et al. Requests reinstatement of previous briefing schedule. (stb)

9/12/01 STATUS REPORT filed by Lisa C. Ward for appellants MDOC and McGinnis. Requests an order from this court requiring the district court to correct their docket sheet. Requests permission to submit a final status report on 9/14/01. Report due 9/14/01. [01-1635] (stb)

9/12/01 Appellant MOTION : to clarify the record. Motion filed by Lisa C. Ward for appellants MDOC and McGinnis. Certificate of service 9/12/01. [01-1635] (stb)

9/14/01 STATUS REPORT filed by Lisa C. Ward for appellants MDOC and McGinnis. Appellants await a ruling from this court with regard to the problems set forth in their initial status report and their motion to clarify the record. (stb)

9/20/01 Appellee RESPONSE in opposition filed regarding appellants' motion to clarify the record. Response from Deborah A. LaBelle for appellees Bazzetta, et al. Certificate of service 9/20/01. [01-1635] (stb)

9/24/01 MEMORANDUM IN SUPPORT filed regarding appellant's motion to clarify the record. Filed by Lisa C. Ward for appellants MDOC and McGinnis. Certificate of service 9/21/01. [01-1635] (stb)

9/26/01 Appellee RESPONSE in opposition to appellants' memo in support of their motion to clarify record. Response from Deborah A. LaBelle for appellees Bazzetta, et al. Certificate of service 9/26/01. [01-1635] (stb)

10/1/01 ORDER filed : the defendants are ordered to include all documents filed in the district court prior to trial in the appendix, even if those documents were not admitted into evidence at trial. In addition, it is ordered that all documents admitted into evidence at trial shall be included in the appendix. If it is alleged by either party that a certain document was neither filed in the district court prior to trial nor admitted into evidence at trial, that document shall be included in a supplemental appendix to be prepared by the defendants. The defendants are to file the appendix, supplemental appendix, and reply brief within 14 days of the date of this order. No extensions shall be granted. All present and future filings pertaining to the record shall be referred to the hearing panel to be assigned to decide this appeal on the merits. [01-1635] Boyce F. Martin, Chief Judge. (stb)

10/3/01 Oral argument date set for November 30, 2001 in court room 636. Notice of argument sent to counsel. [01-1635] (rld)

10/15/01 Appellee MOTION : to change date of oral argument. Motion filed by Deborah A. LaBelle for appellees Bazzetta, et al. Certificate of service 10/15/01. [01-1635] * (stb)

10/17/01 Appellant RESPONSE in opposition filed regarding appellees' motion to change argument date (move to an earlier date). Response from Lisa C. Ward for appellants MDOC and Kenneth McGinnis. Certificate of service 10/17/01. [01-1635] * (stb)

10/18/01 FINAL REPLY BRIEF filed by Leo H. Friedman for Appellant MDOC, Appellant Kenneth

McGinnis. Copies: 07 Certificate of service date 10/15/01 Number of Pages: 05. [01-1635] (rgf)

10/18/01 Corrected appendix filed by Leo H. Friedman. Copies: 05 - 17 volumes. Certificate of Service date 10/15/01 [01-1635] REPLACES JOINT APPENDIX FILED 08/31/01; (rgf)

10/18/01 SUPPLEMENTAL APPENDIX filed by Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis. Copies: 05, Certificate of service date 10/15/01 [01-1635] (rgf)

10/23/01 LETTER SENT by stb denying appellees' motion to change argument date. [01-1635] (stb)

10/26/01 ORDER filed : granting the motions of the Sons and Daughters of the Incarcerated and the ACLU, et al. for leave to file amicus briefs. The amici however will not be permitted to participate in oral argument. [01-1635] Entered by order of the court. (stb)

10/26/01 BRIEF filed by Jill M. Wheaton for Amicus Curiae Sons & Daughters. Copies 7. Certificate of service 8/13/01. Number of Pages: 23. [01-1635] (stb)

10/26/01 BRIEF filed by Kary L. Moss for Amicus Curiae ACLU et al. Copies 7. Certificate of service 8/13/01. Number of Pages: 31. [01-1635] (stb)

11/19/01 Errata to corrected apx filed 10/18/01 by Lisa C. Ward for appellants - color charts. [01-1635] (stb)

11/30/01 CAUSE ARGUED on 11/30/01 by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis, Deborah A. LaBelle for Appellee Toni

Bunton, Appellee Stacy Barker, Appellee Michelle Bazzetta before Judges Merritt, Clay, Gilman. [01-1635] (me)

1/22/02 Appellant MOTION : to take judicial notice (with 3 vol of attachments). Motion filed by Lisa C. Ward for appellants MDOC, and Kenneth McGinnis. Certificate of service 1/18/02. [01-1635] (stb)

1/29/02 Appellee RESPONSE in opposition filed regarding appellants' motion to take judicial notice. Response from Deborah A. LaBelle for appellees. Certificate of service 1/26/02. [01-1635] (stb)

2/7/02 ORDER filed : a ruling on the motion to take judicial notice shall be deferred until the decision is rendered for this case. The appellants may, but are not required, to file a reply brief within 10 days of the date of this order, responding to the appellees' arguments about why the motion to take judicial notice and supplement should not be granted. Such a reply brief shall not exceed 10 pages in length. [01-1635] Gilbert S. Merritt, Eric L. Clay, Ronald L. Gilman, Circuit Judges. (stb)

4/10/02 OPINION filed : The judgment of the district court is AFFIRMED. Decision for publication pursuant to local rule 206 [01-1635]. Gilbert S. Merritt, Authoring Judge, Eric L. Clay and Ronald L. Gilman, Circuit Judges. (dtk)

4/10/02 JUDGMENT : AFFIRMED. (dtk)

4/24/02 Appellant MOTION filed to stay mandate. Motion filed by Leo H. Friedman for appellants MDOC, McGinnis. Certificate of service 4/23/02. [01-1635] (stb)

4/29/02	Appellee RESPONSE in opposition filed regarding appellants' motion to stay mandate. Response from Deborah A. LaBelle for Appellees Bazzetta, et al. Certificate of service 4/26/02. [01-1635] (stb)
5/2/02	ORDER filed denying appellants' motion to stay mandate. [01-1635] Gilbert S. Merritt, Eric L. Clay, Ronald L. Gilman, Circuit Judges. (stb)
5/2/02	MANDATE ISSUED with no cost taxed [01-1635] (stb)
7/24/02	U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellant MDOC, et al. Filed in the Supreme Court on 07-08-02, Supreme Ct. case number: 02-94. [01-1635] (swh)
12/5/02	U.S. Supreme Court letter filed granting a three-point conditional petition for writ of certiorari [2588690-1] filed by MDOC [01-1635]. Filed in the Supreme Court on 12-02-02. (swh)

Docket as of December 5, 2002 9:11 pm

General Docket
US Court of Appeals for the Sixth Circuit

Court of Appeals Docket #: 02-1756 Filed: 6/18/02
Nsuit: 3550 Prisoner: Civil Rights
Bazzetta, et al v. McGinnis, et al
Appeal from: Eastern District of Michigan at Detroit

Case type information:
1) prisoner petition
2) state
3) prisoner civil rights

Lower court information:

District: 0645-2 : 95-73540
Court Reporter: Suzanne Jacques
Trial Judge: Nancy G. Edmunds, U.S. District Judge
Date Filed: 8/31/95
Date order/judgment: 5/17/02
Date NOA filed: 6/4/02

Fee status: paid

Prior cases:
95-2181 EES RGC EAVG
Date filed: 11/1/95 Date disposed: 9/4/97 Disposition: arg
96-1559 EES RGC EAVG
Date filed: 5/3/96 Date disposed: 9/4/97 Disposition: arg
00-0000
Date filed: **/**/** Date disposed: **/**/** Disposition:

Current cases:
Lead Member Start End

Consolidated:
02- 1756 02- 2096

MICHELLE BAZZETTA Plaintiff – Appellee	Michael J. Barnhart FTS 964-7350 313-964-6520 [COR ret] 615 Griswold Suite 925 Ford Building Detroit, MI 48226
	Deborah A. LaBelle FTS 769-2196 734-996-5620 [COR LD NTC ret] Law Offices of Deborah LaBelle 221 N. Main Street Suite 300 Ann Arbor, MI 48104
STACY BARKER Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
TONI BUNTON Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
DEBRA KING	Michael J. Barnhart

Plaintiff – Appellee	(See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
SHANTE ALLEN Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
ADRIENNE BRANAUGH Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
ALESIA BUTLER Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
TAMARA PRUDE Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above)

	[COR LD NTC ret]
SUSAN FAIR Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
VALERIE BUNTON Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
ARTURO BUNTON Plaintiff – Appellee	Michael J. Barnhart (See above) [COR ret]
	Deborah A. LaBelle (See above) [COR LD NTC ret]
v.	
KENNETH MCGINNIS, Director of Michigan Department of Corrections Defendant - Appellant	Lisa C. Ward, Asst. Attorney Gen. FTS 323-0024 517-335-7021 [COR ret] Leo H. Friedman FTS 335-7157 517-335-7021

	[COR LD NTC ret] Office of the Attorney General Corrections Division P.O. Box 30217 Lansing, MI 48909
MICHIGAN DEPARTMENT OF CORRECTIONS Defendant – Appellant	Lisa C. Ward, Asst. Attorney Gen. (See above) [COR ret] Leo H. Friedman (See above) [COR LD NTC ret]

MICHELLE BAZZETTA; STACY BARKER; TONI BUNTON; DEBRA KING; SHANTE ALLEN; ADRIENNE BRANAUGH; ALESIA BUTLER; TAMARA PRUDE; SUSAN FAIR; VALERIE BUNTON; ARTURO BUNTON, through his Next Friend Valerie Bunton

Plaintiffs - Appellees

v.

KENNETH MCGINNIS, Director of Michigan Department of Corrections; MICHIGAN DEPARTMENT OF CORRECTIONS

Defendants - Appellants

6/18/02	Prisoner Case Docketed. Notice filed by Appellant Kenneth McGinnis, Appellant MDOC. Transcript needed: y. Appeal from injuction against certain prison visits. (blc) [02-1756]

6/26/02 APPEARANCE filed by Attorney Deborah A. LaBelle for Appellee Arturo Bunton, Appellee Valerie Bunton, Appellee Susan Fair, Appellee Tamara Prude, Appellee Alesia Butler, Appellee Adrienne Branaugh, Appellee Shante Allen, Appellee Debra King, Appellee Toni Bunton, Appellee Stacy Barker, Appellee Michelle Bazzetta [02-1756] (blc) [02-1756]

7/5/02 TRANSCRIPT ORDER FORM filed by Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis: Transcript on file in district court. [02-1756] [2580266-1] (blh) [02-1756]

7/5/02 APPEARANCE filed by Attorney Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis [02-1756] (blc) [02-1756]

7/5/02 APPEARANCE filed by Attorney Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis [02-1756] (blc) [02-1756]

7/5/02 PRE-ARGUMENT STATEMENT filed by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis [02-1756] (blc) [02-1756]

7/8/02 Notice received from district court that filing fee has been paid by Leo H. Friedman. [2580342-1] (blc) [02-1756]

7/9/02 BRIEFING LETTER SENT setting briefing schedule: appellant brief due 8/18/02 ; appellee brief due 9/17/02 ; appendix due 10/8/02 ; final appellant brief due 10/29/02. [02-1756] final appellee brief due 10/29/02 ;. (blc) [02-1756]

7/22/02 Appellant MOTION filed to extend time to file brief. Motion filed by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis. Certificate of service date 7/16/02 [02-1756] (blc) [02-1756]

7/23/02 LETTER SENT by blc granting motion to extend briefing [2587305-1] filed by Lisa C. Ward [02-1756] resetting briefing schedule: [02-1756] appellant brief due now 9/2/02 ; appellee brief now due 10/2/02 ; appendix now due 10/23/02 ; appellant final brief now due 11/6/02 ; appellee final brief now due 11/6/02. (blc) [02-1756]

9/3/02 PROOF BRIEF filed by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis. Certificate of service date 8/29/02 Number of Pages: 10. [02-1756] (rgf)

9/3/02 Request to require oral argument filed by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis [02-1756] (rgf) [02-1756]

9/9/02 APPEARANCE filed by Attorney Michael J. Barnhart for Appellee Arturo Bunton, Appellee Valerie Bunton, Appellee Susan Fair, Appellee Tamara Prude, Appellee Alesia Butler, Appellee Adrienne Branaugh, Appellee Shante Allen, Appellee Debra King, Appellee Toni Bunton, Appellee Stacy Barker, Appellee Michelle Bazzetta [02-1756] (blc) [02-1756]

9/9/02 Appellee MOTION filed to dismiss case for raising issue in proof brief not raised in district court. Motion filed by Deborah A. LaBelle for Appellee Arturo Bunton, et al. Certificate of service date 9/5/02. [02-1756] (blc) [02-1756]

9/10/02 ORDER filed to consolidate for submission the following cases: 02-1756 & 02-2096 [02-1756, 02-2096]. (blc) [02-1756 02-2096]

9/16/02 Appellant RESPONSE in opposition filed regarding a motion to dismiss case [2613164-1] ; previously filed by Deborah A. LaBelle. Response from Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis in 02-1756. Certificate of service date 9/13/02. [02-1756] (blc) [02-1756]

9/24/02 ORDER filed: The motion to dismiss for raising issue not before the district court is referred to the hearing panel. The request to strike is granted in part. The two documents in the addendum of appellant's brief not filed in the district court are striken, and must be removed from appellant's final brief. [02-1756] (blc) [02-1756]

10/3/02 PROOF BRIEF filed by Deborah A. LaBelle for Appellee Arturo Bunton, et al. in 02-1756. Certificate of service date 10/2/02. Number of Pages: 27. [02-1756] (rgf) [02-1756]

10/3/02 Request to waive oral argument and submit case on the briefs, (waiver on page: 01), filed by Deborah A. LaBelle for Appellee Arturo Bunton, et al. in 02-1756 [02-1756] (rgf) [02-1756]

10/18/02 PROOF REPLY BRIEF filed by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis in 02-1756 Certificate of service date 10/16/02 [02-1756] Final reply brief due 11/16/02. [02-1756] (rgf) [02-1756]

10/24/02 APPENDIX filed by Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis in

02-1756. Copies: 05. Certificate of service date 10/22/02 [02-1756] (rgf)

10/24/02 FINAL BRIEF filed by Deborah A. LaBelle for Appellee Arturo Bunton, et al. 02-1756. Copies: 07. Certificate of service date 10/23/02. Number of Pages: 27. [02-1756] (rgf) [02-1756]

11/7/02 Appellant MOTION filed to hold case in abeyance pending district court decision on motion to clarify record. Motion filed by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis in 02-1756. Certificate of service date 11/4/02 [02-1756] (blc) [02-1756]

11/8/02 LETTER SENT by blc resetting briefing schedule: [02-1756] appellant final brief now due 11/15/02 ; final reply brief now due 11/15/02 ; (blc) [02-1756]

11/15/02 FINAL BRIEF filed by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis in 02-1756. Copies: 07. Certificate of service date 11/13/02 Number of Pages: 10. [02-1756] (rgf) [02-1756]

11/15/02 SUPPLEMENTAL APPENDIX TENDERED. Received from Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis in 02-1756. [02-1756] Copies: 05. Certificate of service date 11/13/02 Corrections to be made: motion to file; (rgf) [02-1756]

11/18/02 BRIEFING LETTER SENT requesting appendix corrections from Lisa C. Ward in 02-1756 because motion to file; final reply briefs. Corrections due: 12/2/02. (rgf) [02-1756]

11/21/02 Appellee MOTION filed to strike a portion of final appellant's brief and tendered supplemental appendix. Motion filed by Deborah A. LaBelle for Appellee Arturo Bunton, Appellee Valerie Bunton, Appellee Susan Fair, Appellee Tamara Prude, Appellee Alesia Butler, Appellee Adrienne Branaugh, Appellee Shante Allen, Appellee Debra King, Appellee Toni Bunton, Appellee Stacy Barker, Appellee Michelle Bazzetta in 02-1756. Certificate of service date 11/18/02. [02-1756] (blc) [02-1756]

11/25/02 Appellant RESPONSE in opposition filed regarding a motion to strike portion of a brief [2652486-1] ; previously filed by Deborah A. LaBelle, a motion to strike a portion of the appendix [2652486-2] ; previously filed by Deborah A. LaBelle. Response from Lisa C. Ward for Appellant Kenneth McGinnis, Appellant MDOC in 02-1756. Certificate of service date 11/22/02. [02-1756] (blc) [02-1756]

11/25/02 Appellant MOTION filed to extend time to file FINAL REPLY brief. Motion filed by Lisa C. Ward for Appellant Kenneth McGinnis, Appellant MDOC in 02-1756. Certificate of service date 11/21/02 [02-1756] (rgf) [02-1756]

11/25/02 FINAL REPLY BRIEF filed by Lisa C. Ward for Appellant Kenneth McGinnis, Appellant MDOC in 02-1756. Copies: 07 Certificate of service date 11/21/02 Number of Pages: 04. [02-1756] (rgf) [02-1756]

12/3/02 RULING granting motion to extend briefing [2655388-1] filed by Lisa C. Ward [02-1756]. (LG/jy/rgf;cm-12/03/02) (rgf) [02-1756]

12/5/02 Appellant MOTION filed to hold case in abeyance pending resolution of companion case in U.S. Supreme Court (cert granted). Motion filed by Lisa C. Ward for Appellant Kenneth McGinnis, Appellant MDOC in 02-1756, Lisa C. Ward for Appellant Kenneth McGinnis, Appellant MDOC in 02-2096. Certificate of service date 12/3/02 [02-1756, 02-2096] (blc) [02-1756 02-2096]

Docket as of December 5, 2002 9:12 pm

General Docket
US Court of Appeals for the Sixth Circuit

Court of Appeals Docket #: 02-2096 Filed: 9/10/02
Nsuit: 3550 Prisoner: Civil Rights
Bazzetta, et al v. McGinnis, et al
Appeal from: Eastern District of Michigan at Detroit

- -
Case type information:
1) prisoner petition
2) state
3) prisoner civil rights
- -
Lower court information:

District: 0645-2 : 95-73540
Trial Judge: Nancy G. Edmunds, U.S. District Judge
Court Reporter: Suzanne Jacques
Date Filed: 8/31/95
Date order/judgment: 8/22/02
Date NOA filed: 8/29/02
- -
Fee status: paid

- -
Prior cases:
None
Current cases:
Lead Member Start End
Consolidated:
02- 1756 02- 2096

MICHELLE BAZZETTA Plaintiff - Appellee	Michael J. Barnhart FTS 964-7350

	313-964-6520 [ret] 615 Griswold Suite 925 Ford Building Detroit, MI 48226
	Deborah A. LaBelle FTS 769-2196 734-996-5620 [NTC ret] Law Offices of Deborah LaBelle 221 N. Main Street Suite 300 Ann Arbor, MI 48104
STACY BARKER Plaintiff - Appellee	Michael J. Barnhart (See above) [ret]
	Deborah A. LaBelle (See above) [NTC ret]
TONI BUNTON Plaintiff - Appellee	Michael J. Barnhart (See above) [ret]
	Deborah A. LaBelle (See above) [NTC ret]
DEBRA KING Plaintiff - Appellee	Michael J. Barnhart (See above) [ret]
	Deborah A. LaBelle (See above)

[NTC ret]

SHANTE ALLEN Plaintiff - Appellee	Michael J. Barnhart (See above) [ret] Deborah A. LaBelle (See above) [NTC ret]
ADRIENNE BRANAUGH Plaintiff - Appellee	Michael J. Barnhart (See above) [ret] Deborah A. LaBelle (See above) [NTC ret]
ALESIA BUTLER Plaintiff - Appellee	Michael J. Barnhart (See above) [ret] Deborah A. LaBelle (See above) [NTC ret]
TAMARA PRUDE Plaintiff - Appellee	Deborah A. LaBelle (See above) [NTC ret]
SUSAN FAIR Plaintiff - Appellee	Michael J. Barnhart (See above) [ret] Deborah A. LaBelle (See above) [NTC ret]

VALERIE BUNTON Plaintiff - Appellee	Michael J. Barnhart (See above) [ret] Deborah A. LaBelle (See above) [NTC ret]
ARTURO BUNTON Plaintiff - Appellee	Michael J. Barnhart (See above) [NTC ret] Deborah A. LaBelle (See above) [NTC ret]

v.

KENNETH MCGINNIS, Director of Michigan Department of Corrections Defendant - Appellant	Lisa C. Ward, Asst. Attorney Gen. FTS 323-0024 517-335-7021 [COR ret] Leo H. Friedman FTS 335-7157 517-335-7021 [COR LD NTC ret] Office of the Attorney General Corrections Division P.O. Box 30217 Lansing, MI 48909
MICHIGAN DEPARTMENT OF CORRECTIONS Defendant – Appellant	Lisa C. Ward, Asst. Attorney Gen. (See above) [COR ret]

Leo H. Friedman
(See above)
[COR LD NTC ret]

MICHELLE BAZZETTA; STACY BARKER; TONI BUNTON; DEBRA KING; SHANTE ALLEN; ADRIENNE BRANAUGH; ALESIA BUTLER; TAMARA PRUDE; SUSAN FAIR; VALERIE BUNTON; ARTURO BUNTON, through his Next Friend Valerie Bunton

Plaintiffs - Appellees

v.

KENNETH MCGINNIS, Director of Michigan Department of Corrections; MICHIGAN DEPARTMENT OF CORRECTIONS

Defendants – Appellants

9/10/02	Prisoner Case Docketed. Notice filed by Appellant Kenneth McGinnis, Appellant MDOC. Transcript needed: y Order entered 08/22/02 granting plaintiffs' motion for attorney fees. (blc) [02-2096]
9/10/02	ORDER filed to consolidate for submission the following cases: 02-1756 & 02-2096 [02-1756, 02-2096]. (blc) [02-1756 02-2096]
9/16/02	APPEARANCE filed by Attorney Leo H. Friedman for Appellant MDOC, Appellant Kenneth McGinnis in 02-2096 [02-2096] (blc) [02-2096]

9/16/02	APPEARANCE filed by Attorney Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis in 02-2096 [02-2096] (blc) [02-2096]
9/16/02	TRANSCRIPT ORDER FORM filed by Lisa C. Ward for Appellant MDOC, Appellant Kenneth McGinnis: court reporter Suzanne Jacques, transcript ordered on 09/12/02 [02-2096] [2619077-1] response due by 9/26/02 for Suzanne Jacques [02-2096] (blh) [02-2096]
9/18/02	TRANSCRIPT ORDER financial arrangements confirmed by Court Reporter Suzanne Jacques for Document [2619077-1] transcript involving, Lisa C. Ward, Suzanne Jacques. Date Made: 09/16/02 Est. pp.: 60. [02-2096] (blh) [02-2096]
10/25/02	TRANSCRIPT ORDER completed by court reporter Suzanne Jacques for Document [2619077-1] transcript involving, Lisa C. Ward, Suzanne Jacques. Number of pages: 73 (1 vol) filed in DC on 10/22/02. [02-2096] (blh) [02-2096]
10/28/02	BRIEFING LETTER SENT setting briefing schedule: appellant brief due 12/9/02 ; appellee brief due 1/8/03 ; appendix due 1/29/03 ; final appellant brief due 2/19/03. [02-2096] final appellee brief due 2/19/03 ;. (blc) [02-2096]
11/25/02	Appellant MOTION filed to extend time to file brief; 30 days. Motion filed by Lisa C. Ward for Appellant Kenneth McGinnis, Appellant MDOC in 02-2096. Certificate of service date 11/22/02 [02-2096] (blc) [02-2096]
12/2/02	LETTER SENT by blc granting motion to extend briefing [2653368-1] filed by Lisa C. Ward [02-

2096] resetting briefing schedule: [02-2096] appellant brief due now 12/23/02 ; appellee brief now due 1/24/03 ; appendix now due 2/14/03 ; appellant final brief now due 2/28/03 ; appellee final brief now due 12/1/02. (blc) [02-2096]

12/5/02 Appellant MOTION filed to hold case in abeyance pending resolution of companion case in U.S. Supreme Court (cert granted). Motion filed by Lisa C. Ward for Appellant Kenneth McGinnis, Appellant MDOC in 02-1756, Lisa C. Ward for Appellant Kenneth McGinnis, Appellant MDOC in 02-2096. Certificate of service date 12/3/02 [02-1756, 02-2096] (blc) [02-1756 02-2096]

Docket as of December 5, 2002 9:13 pm

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: April 13, 1995

TO: All Wardens

FROM: Dan Bolden, Deputy Director
Correctional Facilities Administration

SUBJECT: Department-Wide Visiting Standards - Revised

This memo supersedes the February 21, 1995 and March 13, 1995 memos on the above subject.

The following are department-wide visiting standards to be applied uniformly at each facility. No deviation from these standards shall be allowed unless authorized by me. These standards are effective May 15, 1995.

VISITING PRACTICES STANDARDIZATION

Number of Visits Allowed

The following are the maximum number of visits a prisoner may receive each month at each level of security for all facilities. Any facility not able to meet these levels must seek a variance from the Deputy Director, CFA.

I – 8 per month
II – 7 per month
III – 6 per month

IV (G.P. and protection) – 5 per month
V (G.P. and protection) – 4 per month
Admin. Seg., Punitive Seg., Temp Seg., - 4 per month

Visits not used during a month may not be banked (carried over to any subsequent months). Only 2 of the allowable visits may be weekend visits. **NOTE: An exception is made for all camps because they only have visiting on weekends and state recognized holidays. Also, if a mobilization is initiated at any time during a visit and the visit is terminated because of it, that visit shall not be counted as one of the allowable visits for the month.**

Number of Visitors Allowed

A maximum of five persons may visit one prisoner at a time. Visits in non-contact booths may require an exception due to space limitations. Children under two years of age will not be counted in that number.

EXCEPTION: Huron Valley Center may allow agency representatives to attend visits due to visitor/therapy sessions. Therefore, visitors may exceed the 5 person maximum limit during these visits with agency representatives *only*. They may not have more than 5 non-agency visitors on one visit.

Assigned Seating/Cross Visitation

A. Prisoners and visitors, including children over the age of two, shall be assigned a specific seat in the visiting area, except that, where visiting is done at tables, the assignment shall be to a specific table. Prisoners who may present special problems should be assigned to a seat in the area closest to the officer's station where staff can continuously monitor their behavior.

B. Prisoners shall be allowed to visit only with those individuals who have signed in to visit them, i.e., no "cross visitation will be allowed" between prisoners or their visitors (brief greetings are acceptable; continued conversation is not).

These rules are not a substitute for staff supervision. It is imperative that prisoners and visitors be closely monitored at all times to ensure that contraband is not passed and that inappropriate behavior does not occur.

Restroom Use

A. Visitors shall not use any rest room facilities located inside the visiting room in Levels II or higher.

B. Visitors may leave the visiting room once during their visit to use the rest room only and their return to the visiting room will not be counted as a second visit. It is not necessary for all persons in a group visit to leave the visiting room if one person in that group wishes to leave to use the rest room. If under 16, they must be accompanied by an adult from their visiting group. If, however, one of those visitors wishes to use the rest room a second time, their return will be counted as a second visit unless they have a doctor's excuse which may necessitate frequent rest room usage.

Note: The doctor's excuse must have proper documentation that would allow them to leave the visiting room temporarily to see to their medical needs. If that visitor does not return, the original visit continues.

C. Minor visitors will not be allowed to remain in the visiting room without the supervision of an adult visitor being present.

D. Visitors leaving the visiting room shall be shaken down upon their return to the visiting room. If staff have reason to believe the visitor was anywhere other than the rest room prior to their return to the visiting room, they can be refused readmittance.

Visiting Hours

NOTE: All facilities with shift change at 3:00 p.m. may begin their visiting hours for the day at 3:30 p.m. instead of 2:30 p.m. Also, institutions may not use "odd/even" scheduling systems.

A. All of the sixteen Camps which include: Branch, Brighton, Cusino, Gilman, Kirwen, Koehler, Lehman, Manistique, Ojibway, Ottawa, Parole Camp, Pellston, Pugsley, Sauble, Tuscola, and Waterloo, shall have visiting hours from 8:30 a.m. to 2:30 p.m. Saturday and Sunday and state recognized holidays.

B. All of the fifteen Level I, II or III facilities, which include: Florence Crane, Adrian Temporary, Hiawatha Temporary, Ionia Temporary, Kinross Correctional, Chippewa Temporary, Lakeland Correctional, Muskegon Correctional, Muskegon Temporary, Michigan Training Unit, Carson City Temporary, Egeler Correctional, SPSM/South Complex, Mid-Michigan Temporary, Western Wayne, shall have visiting hours from 2:30 p.m. – 8:30 p.m., Monday through Friday, and 10:00 a.m. – 8:00 p.m., Saturday and Sunday.

Those facilities in Section B with any type of segregation unit may maintain their current visiting hours for those units if they do not conflict with the above required visiting hours. If they do conflict, those facilities must schedule visiting hours for those units at a time that does not conflict with the above required visiting hours.

Visiting on state recognized holidays shall be the same as the regular hours for the day of the week that the holiday falls on.

C. All of the four Level IV facilities, which include: Huron Valley Men's Correctional, Michigan Reformatory, Riverside Correctional and SPSM/Central Complex, shall have visiting hours for general population from 2:30 p.m. – 8:30 p.m. on Tuesday through Sunday.

EXCEPTION: SPSM only shall have visiting from 8:30 a.m. – 8:30 p.m. on Monday also.

Those facilities in Section C with segregation, protection, reception or Level I units may maintain their current visiting hours for those units if they do not conflict with the above required visiting hours, including holiday visiting for these units. If the current visiting hours for those units do conflict with the above-required hours, those facilities must schedule visiting hours for those units at a time other than what is scheduled for general population.

Visiting on state recognized holidays for all facilities listed in Section C shall be the same as the regular hours for the day of the week the holiday falls on. If the state recognized holiday falls on a day where visiting is not scheduled, then visiting shall be scheduled on that day from 2:30 – 8:30 p.m. for general population.

D. Huron Valley Center may maintain their current visiting hours for regular and state recognized holiday visits. All of the 5 other Level V facilities, which include: Baraga Maximum, Oaks Maximum, Alger Maximum, Marquette Branch Prison and Standish Maximum, shall have visiting hours for their general population (not including security levels less than V), from 10:30 a.m. to 2:30 p.m., Monday

through Sunday. The segregation units for those facilities should have visiting hours for prisoners in those units from 8:30 to 10:30 a.m. on Wednesday through Sunday. For those facilities with Level I or II units, they shall schedule visiting from 5:30 – 8:30 p.m.. Tuesday through Sunday. For those facilities with protection units, the visiting hours shall be from 2:30 – 6:30 p.m., Tuesday through Sunday.

Visiting on state recognized holidays for all facilities listed in Section D shall be the same as the regular hours for the day of the week the holiday falls on. If the state recognized holiday falls on a day where visiting is not scheduled, then visiting shall be scheduled from 8:30 – 10:30 a.m. for segregation units, from 2:30 – 8:30 p.m. for Level I, II and II units and from 2:30 – 6:30 p.m. for protection units.

E. The administrative segregation units at the Ionia Maximum Facility shall have visiting hours Thursday through Monday from 2:30 p.m. to 8:30 p.m. The Level II units there shall have visiting hours from 2:30 p.m. to 8:30 p.m. Monday, Thursday, and Friday. If a state recognized holiday falls on a day of the week where visiting is not scheduled, visiting shall be scheduled on that day from 2:30 – 8:30 p.m. for both Levels VI and II prisoners.

F. All of the eleven multi-level facilities, which include: Carson City, Chippewa Correctional, Gus Harrison Correctional, G. Robert Cotton Facility, Brooks Correctional, Macomb Correctional, Mound Correctional, Ryan Correctional, Saginaw Correctional, Scott Correctional, and Thumb Correctional shall use the below schedules.

Visiting on state recognized holidays for all facilities listed in Section F shall be the same as the regular hours

for the day of the week that the holiday falls on. If a state recognized holiday falls on a day of the week where visiting is not scheduled, visiting shall be scheduled on that day, for facilities effected by Schedule A below, from 8:30 – 10:30 a.m. for Administrative Segregation, Punitive Segregation and Temporary Segregation, from 11:00 a.m. – 2:00 p.m. for Level IV general population and from 2:30 – 9:00 p.m. for Levels II and III general population.

For facilities effected by Schedule B below, if a state recognized holiday falls on a day of the week where visiting is not scheduled, it shall be scheduled on that day from 8:30 – 10:30 a.m. for Administrative Segregation, Punitive Segregation and Temporary Segregation, from 11:00 a.m. – 1:30 p.m. for Level IV, from 2:00 – 5:00 p.m. for Level II and II and from 5:30 – 9:00 p.m. for Level I.

SCHEDULE A

Facilities that run separate Level I visiting rooms and that have an administrative segregation unit or that do not have a Level I unit but have an administrative segregation unit, shall use the following visiting schedule:

Level I	Monday – Friday	2:30 p.m. – 9:00 p.m.
	Saturday & Sunday	8:30 a.m. – 9:00 p.m.
Level II/III	Mon. Wed. & Fri.	2:30 p.m. – 9:00 p.m.
	Sunday	8:30 a.m. – 9:00 p.m.
Level IV	Tues. & Thurs.	2:30 p.m. – 9:00 p.m.
	Saturday	8:30 a.m. – 9:00 p.m.
Admin. Seg., Punitive Seg., & Temp Seg.	Wednesday	8:30 a.m. – 1:30 p.m.

Exception: Facilities with segregation units with greater than 30 capacity may include Monday, 8:30 a.m. – 1:30 p.m. if needed.

SCHEDULE B

Facilities that do not have a separate Level I visiting room, but do have an administrative segregation unit, shall use the following visiting schedule:

Level I	Monday & Wed.	2:30 p.m. – 9:00 p.m.
	Sunday	2:30 p.m. – 9:00 p.m.
Level II/III	Friday & Saturday	2:30 p.m. – 9:00 p.m.
	Mon., Tues., & Sun.	8:30 a.m. – 1:30 p.m.
Level IV	Tuesday	2:30 p.m. – 9:00 p.m.
	Thurs., Fri., & Sat.	8:30 a.m. – 1:30 p.m.
Admin. Seg., Punitive Seg., & Temp Seg.	Wednesday	8:30 a.m. – 1:30 p.m.

EXCEPTION: Facilities with segregation units with greater than 30 capacity may include Monday, 8:30 a.m. – 1:30 p.m. if needed.

G. At all facilities, visits shall be processed no later than 30 minutes prior to the end of the visiting hours.

NOTE: For any facility not able to meet these requirements, or if programming or other facility activity conflicts with the time frames given and they cannot be complied with, a variance must be sought from the Deputy Director, CFA.

Visitor Attire

A. Visitors must be fully dressed in clean clothes that are in good repair while they are visiting. Visitors shall not exchange or give any part of their attire to a prisoner.

B. Outer garments such as winter coats, headgear, gloves or outer boots are not allowed in the visiting room. Blazers, suit coats and jackets to jogging suits are permissible.

Visitors may wear religious headgear into the visiting room, however, they must clearly understand that we have the right and business need to search and inspect these items at any time during the visiting process.

C. Clothing such as tube and halter tops, shorts more than 5" above the knee, and skirts, dresses, skorts or culottes more than 3" above the knee are not allowed. (Measurements are to be taken at a point just above the knee.)

D. Clothing which displays obscene or inflammatory words, symbols, gestures or pictures are not allowed.

E. Breasts, backs, midriffs, buttocks and genital areas or undergarments shall not be exposed in any manner either by bare flesh showing or through transparent or see-through clothing.

F. Tank and sleeveless tops may be allowed if all of the criteria of this section are met. The armholes must not be fashioned in a manner that would expose underclothing or breasts.

G. Extreme form-fitting clothing that might be considered "second skin", i.e., running tights, leggings, unitards and carsuits (not all inclusive) must be covered with clothing

that would ensure that breasts, genitals and buttocks areas of that clothing are not showing.

H. Footwear must be worn at all times.

I. First time visitors to DOC facilities (as documented by the visiting record) will be furnished with a smock if they are inappropriately dressed. The record should be noted when and why smocks are used.

J. When necessary, the shift commander will make the final decision with regard to visitor attire.

Items Allowed to be Brought into the Visiting Room by Visitors

Lockable lockers are furnished by the institution. The institution is not responsible for the loss, theft or damage of visitor's property. The following list is all inclusive:

A. Locker key.

B. Visitor pass

C. Change for vending machines is limited to $10,000 per visitor. Whenever there is more than one person visiting a prisoner at a given time, the entire group of visitors cannot bring into the visiting room more than $30.00 for vending machine use.

D. When an infant is on the two clear plastic bottles, one pacifier and one single-layered baby blanket (no quilts or comforter style).

E. Medication which may be needed by the visitor during a visit, wheelchairs, canes, walkers, oxygen equipment, prostheses, etc., upon approval of the shift commander.

F. Photo tickets.

G. Legal documents for review, etc., by prisoner with authorization of shift commander. Must be taken out by the visitor after visit.

Visitor's Information Handout (English and Spanish)

We require that all facilities provide information in writing to visitors regarding:

A. Information regarding the institution.

B. Registration procedure. Visiting hours, including weekdays, weekends and holidays. Provide information for each security level, if appropriate. State when processing of visits begins and ends. Shift change information and its effect on the visits.

C. Describe how many visits are allowed and how they are counted and limits on number of visitors per visit.

D. Who can visit. Outline clergy, attorney, law enforcement, legislative visits.

E. Identification.

F. Attire of visitors and what is allowed in visiting room.

G. Conduct of visitors including cross visiting, rest room use and supervision of children, noise level, use of furnishings and housekeeping practices.

H. Search procedure (describe).

I. Outside visiting yard information.

J. Termination of visits and disallowed visits. Visitor restrictions, violations of law. How dealt with.

K. Property.

1) What is accepted at desk and at what times.
2) What may be mailed into prisoners.
3) Property prisoners may purchase through the prisoner store or other institutional purchasing procedures.

L. Money

1) Prisoners may not possess U.S. currency.
2) Medium of exchange for prisoners at your facility.
3) Methods of providing funds for prisoners.

M. Correspondence

1) How to address mail for prisoners

N. Public Transportation

O. Parking at the Institution

P. Camera Use

Q. Visitor Comments

R. Questions

We recommend that the following items are posted in pertinent areas around the lobby, visiting area, entrance and information desk in both English and Spanish (in compliance with the ADA) in a manner that would be clearly visible and readable by visitors:

1) Instructions to check in at the Information Desk

2) Visiting Hours
3) Cameras
4) What is allowed in the visiting room
5) Warnings – alcohol, drugs, smuggling
6) Money

Allowable Minor Children Visit

The chart below indicates the only conditions under which a minor may visit and who must accompany them, unless the individual is an emancipated minor.

	Child of Prisoner	Child (Other)
Mandatory Escorts	* Parent or legal guardian who must present the child's birth certificate or certificate of adoption. * Immediate family member of prisoner who must present the child's birth certification or certificate of adoption. * Responsible adult, as approved by the Warden, who must present the child's birth certification or certificate of adoption. NOTE: If the prisoner's name is not listed on the birth certificate, the visit shall not be allowed. Affidavits of parentage and applications to name a father on a certificate of birth are not sufficient, until the birth certificate is changed.	Parent or legal guardian who must present the child's birth certification or certificate of adoption for the child

Please refer to PD 05.03.140 "Prisoner Visiting in Institutions" for a list of the circumstances when a person under the age of 18 shall not be permitted to visit.

If a responsible adult wishes to escort a minor child of a prisoner on a visit, the request must be made at lease 2 weeks in advance of the visit in writing with a corresponding notarized letter from the parent (excluding the prisoner) or legal guardian indicating their approval of the visit.

Photos

A. Photo tickets must be sold at the Front Desk either by machine or over the counter.

   NOTE: Institutions should strongly consider selling photo tickets by machine rather than across the Front Desk, as this is a time consuming task, and would free up officers, allowing them to focus on more important matters. The machine method would eliminate the handling of money, the counting and tracking of tickets and tallying the ticket sales and money at the end of shift.

B. Tickets should be of a different make or color than tickets sold in prisoner stores.

C. Prisoners should not be allowed to take tickets purchased by visitors back to their housing units. All tickets must be used or returned to the visitor(s). (Prisoners are known to pay off their various debts incurred with photo tickets.)

Outdoor Visiting Area

If a facility operates an outdoor visiting area, use shall be limited to all levels in multi-level facilities and Level III or below. Prisoners shall be required to be at least six months major misconduct free before they may use the outside visiting

area. Supervision of outdoor visiting areas shall be required at all times. Availability of outside visiting areas shall be uniform at all facilities within a geographical region that have them.

NOTE: This section pertains only to those facilities that operate outdoor visiting areas. It does not mean that you are required to build outdoor visiting areas if you do not already have them, not does it meant that you are required to operate your outdoor visiting area if one already exists at your facility.

Property Left at the Information Desk on Visits

Only clothing and sunglasses may be left at the information desk on a visit, except in the Camp Program where footwear may also be brought in. Property left for prisoners at the front desk should only be allowed Monday through Friday, excluding holidays except in the Camp Program. They only have visiting on the weekends and holidays and therefore may accept property on those days.

If you have any questions regarding the above, you may contact me or Lori Gidley, Administrative Assistant at 373-0287.

DB:2
cc: Director McGinnis
Marjorie VanOchten, Office of Policy and Hearings Administrator
Regional Prison Administrators
Lori Gidley, Administrative Assistant

Michigan Department of Corrections **POLICY DIRECTIVE**	EFFECTIVE DATE 01/12/98	NUMBER 05.03.140
	SUPERSEDES 05.03.140 (03/02/92) DOM 1997-3, 1997-9, 1997-17, 1997-27	
	authority MCL 24.207k; 791.203; 791.251 et seq.; 800.291-.292 Administrative Rules 791.6607-6614	
SUBJECT PRISONER VISITING		
	ACA STANDARDS 3-4255, 3-4440, 3-4441, 3-4441-1, 3-4442, 3-4445	
	Page 1 of 12	

I. POLICY STATEMENT Prisoners in Correctional Facilities Administration (CFA) facilities may receive visits from family members and members of the public, subject to reasonable restrictions to maintain order and security.

II. POLICY: DEFINITIONS

A. Emancipated Minor – A minor who is married, on active duty with the armed forces of the United States, or for whom a court has issued an order of emancipation.

B. Immediate Family Member - A grandparent, parent, stepparent, spouse, mother-in- law, father-in-law, child, step-child, grandchild, sibling, stepbrother and stepsister. An aunt and uncle may be included if adequate verification is provided that they served as a surrogate parent.

C. Qualified Clergy - Leaders of a religious organization or entity such as a church, mosque or synagogue, or persons who have been granted clergy status by a recognized religion and have ecclesiastical endorsement from a religious authority. This does not include anyone who is self-ordained or designated as clergy by a prisoner

VISITOR TRACKING SYSTEM

D. CFA shall develop, implement and maintain a computerized visitor tracking system to track and control the prisoner visitor

E. The Office of Planning, Research and Management Information Services, Administration and Programs, shall provide operational assistance to CFA in the development, implementation and use of the computerized visitor tracking system.

F. Each facility shall maintain a manual visitor tracking system to be used if the computerized system is inoperable.

APPROVED VISITORS LIST

G. Except as set forth in Paragraphs M and N, a prisoner shall only be allowed to visit with those persons who have been approved for placement on the prisoner's approved visitors list. The prisoner shall complete a Visitor List Form (CAJ-334) identifying those immediate family members and not more than ten others from whom s/he would like to receive visits. The prisoner shall submit the completed form to his/her Resident Unit Manager. Only those persons identified on the prisoner's list shall be considered for approval to visit. The prisoner shall be allowed to add or delete names of immediate family members from the list at any time. The prisoner shall be allowed to add or delete other names at least once every six months.

H. The Visiting Application form (CAJ-103) shall be made readily available to prisoners and proposed visitors at each facility. Each person named on the Visitor List Form who wants to visit the prisoner must complete the Visiting Application form and submit it to the facility where the prisoner is housed. The form must be received sufficiently prior to the visit to allow for necessary review, approval and placement on the prisoner's approved visitors list by facility staff.

I. Upon receipt of a completed Visitor List Form and Visiting Application, facility staff shall determine if the proposed visitor is eligible for placement on the prisoner's approved visitors list. This includes attempting to confirm the relationship of those identified by a prisoner as being immediate family members by reviewing the prisoner's file. If there is inadequate documentation in the file to confirm the relationship, the prisoner or family member shall be required to provide the documentation necessary to adequately confirm the relationship.

J. A proposed visitor shall be approved for placement on the prisoner's approved visitors list if all of the following criteria are met:

1. The proposed visitor is not subject to a current visitor restriction.

2. The proposed visitor is not a prisoner or a former prisoner in any jurisdiction. However, a prisoner or former prisoner who is an immediate family member may be placed on the prisoner's approved visitors list with prior approval of the warden of the facility where the visit will occur.

3. The proposed visitor is not on parole or probation in any jurisdiction as a result of a felony conviction. However, a parolee or probationer who is an immediate family member may be placed on the prisoner's approved visitors list with prior approval of the warden of the facility where the visit will occur and written approval of the supervising field agent.

4. The person is 18 years of age or older, an emancipated minor, or the child, stepchild, or grandchild of the prisoner. However, a child, stepchild or grandchild of the prisoner shall not be approved for placement on the prisoner's approved visitors list under any of the following circumstances:

   a. The Department is notified that there is a court order prohibiting visits between the child and prisoner;

   b. The Department is notified that the parental rights of the prisoner for the child have been terminated;

   c. The prisoner has been convicted of child abuse,

criminal sexual conduct or any other assaultive or violent behavior against the child or sibling of the child unless an exception has been granted by the Director upon request of the warden. The warden will be notified in writing if an exception is granted.

5. The proposed visitor is not on another prisoner's approved visitors list except as an immediate family member. In other words, a visitor may be on the list of all prisoners who are immediate family members, but only on the list of one prisoner who is not an immediate family member.

6. If the proposed visitor is a Department employee, s/he may visit only as set forth in the Employee Handbook.

7. If the proposed visitor is a volunteer, s/he may visit only as set forth in PD 03.02.105 "Volunteer Program".

K. Notwithstanding Paragraph J, the warden may deny placement of anyone on a prisoner's approved visitors list for the safety or security of the facility, protection

of the public, previous violations of visiting room rules by the proposed visitor or for other reasonable cause as determined by the warden. Wardens shall advise the appropriate Regional Prison Administrator (RPA) in writing whenever a person is denied placement on a prisoner's approved visitors list pursuant to this paragraph and shall include the basis for the denial.

L. The proposed visitor shall be provided with a copy of the completed Visiting Application, indicating whether s/he has been approved for or denied placement on the prisoner's approved visitors list. If denied, the Visiting Application shall contain the reason for the denial. The prisoner also shall be advised in writing if the proposed visitor is not approved for placement on his/her approved visitors list. A prisoner may appeal a denial through the prisoner grievance process. A proposed visitor may submit a written request for reconsideration of a denial to the warden.

M. The warden may allow a visit between a prisoner and a person who is not on the prisoner's approved visitors list if the warden determines that it is in the best

interest of the prisoner and is not a threat to the good order and security of the facility. A visitor may be allowed only one such visit with a prisoner. Subsequent visits with the same prisoner by that visitor shall require placement on the prisoner's approved visitors list in accordance with this policy.

N. The following persons shall be allowed to visit a prisoner without being on the prisoner's approved visitors list, except if the person is related to the prisoner by blood or marriage, is on probation or parole in any jurisdiction as a result of a felony conviction, or is a prisoner:

1. Qualified clergy.

2. A volunteer in an outreach program that is sponsored by an external religious organization.

3. An attorney, or representative acting on the attorney's behalf, on official business with the prisoner.

4. An official representative of the legislative, judicial, or executive branch of government on official business with the prisoner.

Such visits shall not be counted as one of the prisoner's regular visits. Except for volunteers in an outreach program, the above persons may visit outside of standard visiting hours with prior approval of the warden or designee.

REMOVAL FROM APPROVED VISITORS LIST

O. A person approved for placement on a prisoner's approved visitors list shall be removed from the approved visitors list if s/he sends a written request to the facility at which the prisoner is located. The listed person shall be removed from the prisoner's approved visitors list within five business days of receipt of the request. The prisoner and the listed person shall be notified in writing that the listed person was removed from the prisoner's approved visitors list at his/her request.

P. A person approved for placement on a prisoner's approved visitors list shall be removed from the list if the Department receives reliable information that the visitor is no longer eligible for placement on the prisoner's approved visitors list. Both the prisoner and the visitor shall be notified in writing of the reasons for the removal. The prisoner may appeal the removal through the prisoner grievance process. The

visitor may submit a written request for reconsideration to the warden.

REQUIRED IDENTIFICATION PRIOR TO VISIT

Q. Except as set forth in Paragraph R, all visitors shall be required to present a valid pictured driver license, state identification card, military identification card, or passport for identification verification prior to each visit. Similarly reliable valid pictured identification may be used for identification verification as approved by the warden.

R. An original or a certified true copy of a birth certificate, certificate of adoption, or a court order establishing paternity shall be required for identification verification prior to each visit for a visitor under the age of 18 who does not have valid pictured identification to present.

S. In addition to the identification required in Paragraph Q, an attorney shall be required to present his/her state bar card, and a representative acting on the attorney's behalf also shall be required to present a letter on official letterhead from the attorney or law firm, to qualify for a visit pursuant to Paragraph N.

T. In addition to the identification required in Paragraph Q, a member of the clergy may be required to provide written verification

of his/her clergy status upon request of the warden or designee to qualify for a visit pursuant to Paragraph N.

VISITING ROOM OPERATION

U. The CFA Deputy Director shall establish department-wide standards for visiting room operation which are consistent with this policy and which shall be enforced at all facilities. The standards shall identify general visiting information that each facility shall make available to visitors in writing in both English and Spanish versions. The standards also shall, at a minimum, address the following:

1. Visiting hours.

2. Number of visits allowed.

3. Number of visitors allowed per visit.

4. Proper attire and conduct of visitors and prisoners during a visit.

5. Property which visitors and prisoners are allowed to bring on a visit.

V. During contact visits, physical contact between prisoners and visitors is prohibited except for one kiss and one embrace between a prisoner and each of his/her visitors at the beginning and end of each visit and when a picture is being taken. In addition, a prisoner and his/her

visitor are permitted to have their arms around the shoulders of one another and may hold hands. A prisoner who is a parent also may appropriately touch and hold his/her child if under two years old and bottle feed his/her infant while visiting. Corporal punishment of any type is prohibited and shall result in an immediate termination of the visit.

W. A prisoner shall be allowed to visit only with his/her own visitors; "cross visitation" with another prisoner's visitor(s) is prohibited. Except for a brief greeting at the start or end of a visit, conversations with other prisoners or other prisoners' visitors shall be prohibited.

X. Prisoners and visitors, including children two years of age or older, shall be assigned a specific seat or table in the visiting area.

Y. Prisoners and visitors shall be closely monitored at all times to ensure that contraband is not passed and that inappropriate behavior does not occur. This may include assigning a prisoner a seat or table in the area closest to the officer's station to permit continuous monitoring if the prisoner presents a special concern, including if the prisoner is visiting with a child and has a history of criminal sexual conduct or other assaultive or violent offense against a child. However, custodial supervision and control shall be as unobtrusive as possible

consistent with custody and security controls. All visitors shall be treated courteously and assisted promptly.

SEARCHES

Z. Prisoners and visitors shall be searched in accordance with PD 04.04.110 "Search and Arrest of Prisoners, Employees and Visitors".

HOSPITAL VISITS

AA. Except at the Huron Valley Center (HVC), a prisoner who is hospitalized may receive visitors who meet the requirements of this policy only if the prisoner is critically ill, as verified by the attending physician, and with prior approval of the warden or deputy warden of the facility providing custody coverage. The warden or deputy warden shall consult with the warden or deputy warden of the facility at which the prisoner is permanently housed before deciding whether to approve the visit. Approval shall be granted for visits to conduct official business with an attorney or his/her representative and with qualified clergy of the prisoner's designated religion or whom the prisoner specifically requests to see, subject to Paragraph N. Approval also shall be granted for visits to conduct official business with staff from the Office of the Legislative Corrections Ombudsman.

BB. Prisoners at HVC shall be permitted visits consistent with applicable Department of Community Health policies and procedures.

CC. Approved visits shall be scheduled by the warden or deputy warden of the facility providing custody coverage at the convenience of staff, prisoners and visitor(s) and for a length of time as determined by the warden. Custodial staff shall be present at all times during the visit.

NON-CONTACT VISITING

DD. Prisoners who are housed in a security level V or VI facility or housing unit, are serving a disciplinary sanction in punitive segregation (detention), or are classified to administrative segregation shall be limited to non-contact visits, except that a contact visit shall be allowed with an attorney upon request of the attorney subject to Paragraphs N and FF.

EE. The warden shall limit a prisoner of any security level to non-contact visits for a period of 30 days if the prisoner is found guilty of a major misconduct violation of substance abuse, except that a contact visit shall be allowed with an attorney upon request of the attorney subject to Paragraphs N and FF.

FF. The warden may limit a prisoner of any security level to non-contact visits under the following circumstances:

1. When visiting an immediate family member or an attorney who is subject to a visitor restriction.

2. When a search of a visitor cannot be conducted due to the presence of a cast, prosthetic device, oxygen tank or any medically required device.

3. When the prisoner is being monitored for suicidal behavior and non-contact visiting is determined by the warden, after consultation with appropriate health services staff, to be necessary to ensure the prisoner's physical safety.

4. When it is determined by the warden, based on a review of a hearing officer's finding of guilt of a major misconduct charge or upholding of a visitor restriction, that a prisoner or visitor demonstrates unmanageable behavior that is related to contact visiting.

GG. Wardens of facilities that do not have permanent non-contact visiting areas must have sufficient portable non-contact visiting booths to accommodate prisoners limited to non-contact visiting for the reasons set forth above, except that portable non-contact visiting booths shall

not be used if the visitor is subject to a permanent visiting restriction.

HH. Notwithstanding Paragraphs DD, EE and FF, contact visits between a prisoner and staff from the Office of the Legislative Corrections Ombudsman shall be allowed if requested by that Office.

II. If a hearing officer upholds a visitor restriction for conduct occurring during a non- contact visit, the prisoner and restricted visitor shall not be permitted any visits during the time period of the visitor restriction.

DISALLOWED/TERMINATED VISITS

JJ. Visits may be terminated based on visiting room overcrowding. If this occurs, the visit which began first shall be terminated first with the exception of visitors who have traveled 400 miles or more round trip. All visits shall be terminated any time the siren is sounded, and visitors must leave the facility and grounds immediately.

KK. A visit shall be disallowed (i.e., not permitted to occur) or shall be terminated for any of the following reasons:

1. The prisoner does not want to visit.

2. If the visitor is a minor child, stepchild or grandchild of a prisoner but is not accompanied by an adult immediate

family member or legal guardian who is on the prisoner's approved visitors list, unless the child is an emancipated minor and can show adequate proof of emancipation.

3. The prisoner or visitor appear to be intoxicated or under the influence of a controlled substance.

4. The prisoner or visitor fails to comply with a requirement of this policy, including CFA visiting standards, or the Department's administrative rules.

5. The visitor directs verbally abusive language at staff, prisoners or other visitors.

6. The prisoner commits a major misconduct violation in the visiting room.

7. Reliable information has been received that the purpose of the visit is to commit an illegal act. The appropriate RPA shall be advised in writing whenever a visit is disallowed or terminated for this reason.

LL. If circumstances permit, supervisory staff shall verbally explain the reason for a visit being terminated or disallowed at the time it occurs.

MM. If the visitor is involved in the conduct for which the visit is terminated or

disallowed, the visitor shall not be allowed to visit at that facility for the remainder of that day and may be subject to a 90-day or permanent restriction of visits to all facilities if the requirements in Paragraphs OO through WW are met.

NN. If the prisoner is involved in conduct for which a visit is terminated or disallowed, s/he shall be given a major misconduct report for the violation(s) committed. A hearing shall be conducted pursuant to R 791.3315. The hearing officer shall consider imposing a sanction of loss of visiting privileges if the prisoner is found guilty of a major misconduct which was received in relation to a visit.

<u>VISITOR RESTRICTIONS AND REQUIRED HEARINGS</u>

OO. A visit shall be terminated or disallowed and the prisoner and visitor notified that the facility will be requesting a 90-day restriction of the visitor's visits with all prisoners if any of the following occur:

1. The visitor makes a false statement with respect to visiting.

2. The visitor damages or attempts to damage department property or engages in disruptive behavior while on department property.

3. The visitor removes or attempts to remove any item from the institution that is not authorized by the institution.

PP. In the situations described below, a visit shall be terminated or disallowed and the prisoner and visitor notified that the facility will be requesting a permanent restriction of the visitor's visits with all prisoners:

1. The visitor smuggles, conspires to smuggle or attempts to smuggle any item into or out of the facility. Staff shall ensure that the Michigan State Police are notified in accordance with PD 04.04.110 "Search and Arrest of Prisoners, Employees and Visitors" if the item is believed to be illegal contraband.

2. The visitor assaults staff or others or threatens them with physical harm.

3. The visitor assists, conspires to assist or attempts to assist, a prisoner to escape.

4. The prisoner or visitor touches or exposes the breasts, buttocks or genital area during a visit. Touching that is incidental to a brief embrace permitted at the beginning and end of a visit shall not be subject to this restriction.

5. The visitor has a pending felony or misdemeanor charge or has been found guilty of a felony or misdemeanor that occurred in connection with a visit. The restriction shall be removed if the visitor provides proof that the charge has been dismissed or that the charge resulted in a not guilty finding.

QQ. The behavior described in Paragraphs OO and PP, subparagraphs 1 through 3, need not have occurred in connection with a visit. For example, a person who leaves contraband in another area of the facility grounds for the prisoner to pick up, mails contraband to a prisoner, or discusses escape plans with a prisoner over the telephone may be subject to a visitor restriction.

RR. A visitor subject to a proposed visitor restriction shall be temporarily restricted from all visits pending a visitor restriction hearing.

SS. If the incident leading to the proposed visitor restriction involved both the prisoner and the visitor, the prisoner shall be sent a Notice of Proposed Visitor Restriction (CSJ-315A) in addition to receiving a major misconduct report. The visitor shall be sent the Notice of Proposed Visitor Restriction, a copy of the misconduct report and notice of the date of the visitor restriction hearing via first class mail to the address the visitor provided the facility at the time of the visit. Both the

prisoner and the visitor are entitled to hearings conducted pursuant to R 791.3315. The major misconduct hearing and the visitor restriction hearing shall be scheduled on the same date if possible.

TT. If the incident leading to the proposed visitor restriction involved the visitor only, both the visitor and the prisoner shall be sent a Notice of Proposed Visitor Restriction (CSJ-315A) and notice of the date of the hearing. The notice to the visitor shall be sent via first class mail to the address the visitor provided the facility at the time of the visit. In all cases, the hearing investigator shall obtain a written statement from the prisoner to be presented at the hearing. The prisoner may be present at the visitor's hearing if the hearing officer finds that the prisoner's presence is required.

UU. A hearing investigator shall be assigned in all visitor restriction hearings. The hearing investigator shall ensure that the notices required in Paragraphs SS and TT are appropriately sent and that all relevant documents and other evidence are present at the hearing, including any written information submitted by the visitor that the visitor wants considered. The hearing investigator at the facility where the hearing is held shall retain a copy of the hearing investigation for at least two years from the date of the hearing.

VV. The visitor restriction hearing shall be conducted by the Hearings and Appeals Division, Office of Policy and Hearings. The hearing shall be conducted within 30 business days of the date that notice of the hearing is mailed or given to the visitor, unless the hearing officer determines there is good cause for delay, or relevant time requirements are waived by the visitor or prisoner, as appropriate.

1. If the hearing officer does not uphold the visitor restriction or if the hearing is not conducted within 30 business days, absent a finding of good cause for delay or a waiver of the time requirements, a visitor restriction will not be imposed. The temporary restriction shall be removed and visits restored immediately. The warden may request a rehearing in accordance with PD 03.03.105 "Prisoner Discipline".

2. If the visitor restriction is upheld, a Notice of Visitor Restriction (CSJ-315B) shall be given to both the prisoner and the visitor. If a 90-day restriction is imposed, the 90 days shall include the time the visitor was on a temporary restriction. Either the prisoner or visitor may request a rehearing in accordance with PD 03.03.105.

WW. If a visitor restriction is upheld at a hearing, the visitor restriction shall be

entered into the computerized visitor tracking system.

XX. The CFA Deputy Director may authorize removal of a permanent visitor restriction upon written request of the restricted visitor or the warden, or on his/her own initiative, except that restrictions for the following shall not be removed at any time:

1. Smuggling, conspiring to smuggle or attempting to smuggle a controlled substance or a firearm into a facility.

2. Assault of staff or others which resulted in serious physical injury.

3. Assisting, or conspiring or attempting to assist, a prisoner to escape.

4. A felony conviction for the behavior by the prisoner or visitor which resulted in the visitor restriction.

YY. The CFA Deputy Director shall not authorize removal of a permanent visitor restriction pursuant to Paragraph XX for the following until at least three years after the date of the incident:

1. Smuggling, conspiring to smuggle, or attempting to smuggle alcohol, a weapon other than a firearm, escape paraphernalia, or money over $10 into a facility.

2 Assaulting or threatening to assault staff or others, not resulting in serious physical injury.

ZZ. The CFA Deputy Director may authorize removal of all other permanent visitor restrictions pursuant to Paragraph XX one year after the date of the incident.

AAA. A restricted visitor may request removal of a visitor restriction by sending a written request to the warden of the facility where the prisoner with whom the visitor wants to visit is located.

1. If the restricted visitor is eligible for removal of the visitor restriction pursuant to this policy, the warden shall make a written recommendation to the appropriate RPA. The RPA shall review and forward the recommendation to the CFA Deputy Director, along with the visitor's written request. The CFA Deputy Director or designee shall determine if the restriction should be removed and shall notify the warden of his/her determination. If denied, the CFA Deputy Director or designee also shall ensure that the warden is notified when the restricted visitor may reapply for removal. The warden shall ensure that the restricted visitor is notified of the CFA Deputy Director's determination and, if applicable, when the visitor may reapply for removal.

2. If the restricted visitor is not eligible for removal of the visitor restriction, the warden or designee shall notify the visitor in writing of his/her ineligibility and if/when the visitor will be eligible to apply for removal.

PERMANENT RESTRICTION OF ALL PRISONER'S VISITS

BBB. Except as set forth in Paragraph EEE, the Director may permanently restrict all visits for a prisoner who is convicted or found guilty of any of the following:

1. A felony or misdemeanor that occurred during a visit.

2. A major misconduct violation that occurred during a visit or was associated with a visit.

3. Escape, attempted escape or conspiracy to escape.

4. Two or more violations of the major misconduct charge of substance abuse.

CCC. If a prisoner has been found guilty of the conduct set forth in Paragraph BBB, the warden shall recommend that all visits be permanently restricted. S/he shall submit the recommendation, along with all supporting documentation, to the appropriate RPA. The RPA shall review and forward the recommendation to the

CFA Deputy Director for review. If the CFA Deputy Director agrees that the restriction is warranted, the recommendation shall be submitted to the Director for a final determination.

DDD. The CFA Deputy Director or designee shall ensure that the warden is notified of the Director's determination and that any restriction is entered into the computerized tracking system. The warden shall ensure the prisoner is notified of the Director's determination

EEE. A prisoner whose visits have been permanently restricted shall be allowed visits only with attorneys or his/her representative, qualified clergy and staff from the Office of Legislative Corrections Ombudsman in the manner set forth in this policy.

FFF. The Director may remove a restriction upon written request of the warden or the restricted prisoner, subject to the following:

1. The restriction shall not be removed if it is based on a felony or misdemeanor that occurred during a visit or if it is based on an escape, attempted escape or conspiracy to escape associated with a visit.

2. The restriction shall not be considered for removal until at least two years after imposition of the restriction by

the Director if it is based on two or more violations of the major misconduct charge of substance abuse if one or both of the charges were for possession or use of any prohibited substance other than alcohol, or if one or both of the charges were for refusal to submit to substance abuse testing.

3. The restriction shall not be considered for removal until at least six months after imposition of the restriction by the Director if it is based on a major misconduct that occurred during a visit or was associated with a visit, if it is based on an escape, attempted escape or conspiracy to escape not associated with a visit, or if it is based on two or more violations of the major misconduct charge of substance abuse if the charges were for possession or use of an alcoholic beverage.

GGG. If eligible for removal of the restriction based on the criteria set forth above, a prisoner may request removal of the restriction by sending a written request to the warden of the facility where the prisoner is housed.

1. If the prisoner is eligible for removal of the restriction, the warden shall submit his/her written recommendation, along with the prisoner's written request if one was submitted, to the appropriate RPA. The RPA shall review and forward the

documentation to the CFA Deputy Director. The CFA Deputy Director shall review the request and make a written recommendation to the Director for a final determination. If denied, the Director shall determine when the prisoner may reapply for removal of the restriction.

2. If the prisoner is not eligible for removal of the restriction, the warden or designee shall notify the prisoner in writing of his/her ineligibility and if/when the prisoner will be eligible to apply for removal.

HHH. The Deputy Director or designee shall ensure that the warden is notified of the final determination and that the information is entered into the computerized visitor tracking system. The warden shall ensure that the prisoner is notified of the final determination and, if applicable, when s/he may reapply for removal of the restriction.

NOTICE TO PRISONERS OF VISITATION REQUIREMENTS

III. This policy, the department-wide visiting standards established pursuant to Paragraph U, and the facility's operating procedures implementing this policy directive shall be made available to a prisoner within 24 hours after arrival at a facility.

OPERATING PROCEDURES

JJJ. Wardens shall ensure that within 60 days of its effective date procedures implementing this policy directive are developed and forwarded to the appropriate RPA for approval.

IV. AUDIT ELEMENTS:

KKK. A primary audit elements list has been developed and will be provided to wardens to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: _____

Kenneth L. McGinnis, Director

_____

Date

Michigan Department of Corrections POLICY DIRECTIVE	EFFECTIVE DATE 01/01/99	NUMBER 03.03.105
	SUPERSEDES 03.03.105 (06/06/94)	
	AUTHORITY MCL 24.207k; 791.203; 791.206; 791.251 et seq.; 800.33 Administrative Rules 791.3301-.3320; 791.5501-.5513; 791.5515	
SUBJECT PRISONER DISCIPLINE		
	ACA STANDARDS 3-4214 through 3-4236	
	Page 1 of 11	

I. POLICY STATEMENT Disciplinary sanctions shall be imposed against prisoners for rule violations in accordance with due process requirements.

II. POLICY: GENERAL INFORMATION

A. Alleged violations of written rules are classified as 'major misconduct or "minor misconduct' and are further defined on Attachments A, B and C of this policy. Misconduct reports may be written only for the violations which are on these attachments

B. The structure of the disciplinary process is one of progressive sanctions. The least drastic method to ensure compliance with the rules should be used. Counseling and summary action should be attempted to correct minor violations. However, when rule infractions require more formal resolution, a misconduct report may be written. If a misconduct report is written it should be prepared as soon as possible after the violation is observed or reported. Since the possible sanctions are more severe for major misconduct, greater procedural safeguards are provided for those charged with such violations.

C. A Hearings Handbook shall be issued by the Office of Policy and Hearings and updated as necessary to assist staff in implementation of the major misconduct hearing process.

SUMMARY PUNISHMENT

D. An employee who observes a minor misconduct violation may issue a Summary Disciplinary Action-Minor Rule Infraction (Form CSJ-275) and impose summary punishment for the misconduct, if the prisoner signs a waiver of her/his right to a minor misconduct hearing and appeal. The punishment shall not exceed one day toplock, eight hours extra duty, or seven days loss of privileges. Any nondangerous contraband shall be confiscated in conjunction with a summary disciplinary action and turned

over to appropriate institutional staff for proper disposition. The prisoner shall be given a Contraband Removal Record (CSJ-284) by the staff member confiscating the contraband. A record of each summary disciplinary action issued shall be on file with the deputy warden, assistant deputy warden or other supervisory level person.

E. If a prisoner does not waive her/his right to a hearing and appeal, the prisoner shall be charged only with a minor misconduct regardless of the charge or the prisoner's disciplinary record.

MINOR MISCONDUCT

F. A prisoner charged with minor misconduct shall have a right to the following:

1. Advance written notice of the charge, except in the case of a summary disciplinary action.

2. A hearing conducted in compliance with Administrative Rule 791.3310. The employee designated as the hearing officer shall have had no prior direct involvement in the matter at issue.

3. To be present at the hearing. If the prisoner refuses to attend, it shall be verified on the hearing report that the prisoner was notified of the hearing

and refused to attend. In all cases, the prisoner shall receive a copy of the hearing officer's written decision.

4. An appeal of the hearing officer's decision to the assistant deputy warden or appropriate Field Operations Administration (EQA) supervisor/manager. The appeal must be filed within 24 hours of receipt of the hearing officer's written decision.

G. The hearing officer in a minor misconduct case shall ensure that all relevant evidence has been presented and that the prisoner has had adequate time and opportunity to prepare his or her defense. A prisoner does not have the right to a hearing investigator for minor misconduct, but the hearing officer shall make a reasonable investigation of charges and assist those prisoners who have limited intelligence or education in presenting a defense. The decision of the hearing officer shall be based on a preponderance of the evidence. Sanctions for minor misconduct are discussed in Paragraphs Q through W.

H. A waiver of a minor misconduct hearing may be accepted by either the hearing officer or reviewing officer. Property determined to be nondangerous contraband at a minor misconduct hearing shall be confiscated and turned over to appropriate staff for proper disposition. The disposition shall be noted on the hearing report.

I. Unless a minor misconduct charge is part of a major misconduct hearing, minor misconduct hearing reports shall not be filed in the prisoner's files, except that a copy of the Minor Misconduct Violation and Hearing Report (Form CSJ-240 C) shall be kept in the prisoner's Counselor file or, if in Community Residential Programs (CRP), the prisoner's field file for at least 60 days after the date of the hearing for control and monitoring purposes and to provide the basis for establishing a pattern of minor misconducts if other action becomes necessary. If a major misconduct charge is reduced to a minor by the major misconduct hearing officer, a copy of the entire hearing record shall be retained by the hearing investigator as set forth later in this policy. A copy of the hearing report shall also be retained in the prisoner's Counselor file or, if in CRP, the prisoner's field file for at least 60 days.

MAJOR MISCONDUCT

J. A Major Misconduct Report (Form CSJ-240 A) may be written by any Department staff person or a person under contract with the Department who has knowledge that a misconduct has occurred. A Major Misconduct Report shall be written if the behavior constitutes a nonbondable major misconduct charge, as identified on Attachment B.

K. Major misconduct which also is a felony shall be referred to the appropriate law enforcement agency as well as being pursued through the Department disciplinary process. The initiation of the Department s disciplinary process may be delayed if it would interfere with the criminal investigation or prosecution. Prisoners charged with major misconduct are entitled to a formal hearing as set forth in Administrative Rule 791.3315. The major misconduct hearing process is further described in the sections set forth below.

Review

1. A reviewing officer shall conduct a preliminary review of the Major Misconduct Report with the prisoner. A reviewing officer shall be a supervisory level employee in Correctional Facilities Administration (CFA) institutions. In FOA, the reviewing officer shall be specifically designated by procedure. Major misconduct violations which occur in OFA institutions shall be reviewed within 24 hours after the report is written, unless there is reasonable cause for delay, as determined by the hearing officer. If the report is not reviewed within that time period, and there is no reasonable cause for delay, it shall be dismissed by the hearing officer. Major misconduct violations which occur in FOA are not required

to be reviewed within 24 hours and shall be dismissed by the hearing officer on timeliness grounds only if the delay between the time the violation occurred and the date that the report is reviewed has resulted in actual prejudice to the charged prisoner, eg., witnesses can no longer be located and the prisoner was available for review during the delay.

2. The review is the beginning of formal processing and investigation of the misconduct report and shall include the following:

   a. Examination of the misconduct report to determine that it is appropriate and correct.

   b. Reading of the misconduct report to the prisoner.

   c. Advising the prisoner of her/his right to witnesses, relevant documents. and a hearing investigator.

   d. Noting on the misconduct report the location of any physical evidence and attachment of a photograph, if appropriate.

   e. Ensuring that the prisoner receives a copy of the misconduct report.

3. If the reviewing officer determines that a misconduct report is not appropriate or not properly written, s/he may return the report to the staff member who wrote it for a re-write. The reviewing officer also may pull a misconduct report which s/he determines to be inappropriate, but shall first discuss it with the reporting staff person. Once a misconduct report has been reviewed, it shall not be pulled except by the warden or FOA area manager for good cause.

4. Any misconduct report which is pulled shall be retained by the warden or FOA area manager for six months and shall be accompanied by a written statement

5. At the review, the reviewing officer shall order a prisoner to be confined in temporary segregation or on toplock pending a formal hearing if the charge is nonbondable. The warden or FOA area manager may allow a prisoner charged with a nonbondable offense to remain on bond status if it is determined that this will not present a threat to safety or security. In addition a reviewing officer may place a prisoner who is charged with escape on bond status if the escape was from a facility of a lower security level than the one where the prisoner is now incarcerated. For example, a prisoner who escapes from CRP or a camp, and

is returned to a secure facility, may be placed on bond status pending his/her hearing if the reviewing officer determines that s/he will not be a threat to security at the present custody level.

6. If the charge is bondable, the reviewing officer may order a prisoner to be confined in temporary segregation or on toplock pending a formal hearing if there is a reasonable basis to believe that failure to do so would constitute a threat to the security or good order of the facility. The reason for confinement in temporary segregation or on toplock shall be stated on the misconduct report.

7. The reason given for confining a prisoner for a bondable offense must relate to the specific circumstances of the incident. In other words, it must state why this case differs from other instances of this charge and thus presents a threat to security. Conclusory phrases such as "necessary for the good order of the facility are not acceptable as reasons. The reason must state the facts underlying the charge which make it necessary to lock up the accused prisoner for an offense which policy has already determined can normally be safely handled as a bondable matter.

8. Whenever a prisoner is placed in temporary segregation or on toplock for a bondable offense, and an adequate reason is not given on the misconduct report for this action, the hearing officer shall report the matter to the warden or FOA area manager and to the Hearings Administrator.

9. If a prisoner is placed in temporary segregation or on toplock, the exact time and date of placement shall be noted on the misconduct report by the reviewing officer who also shall immediately notify the prisoner's housing unit of this placement. The person notified in the housing unit shall be indicated on the misconduct report.

10. In FOA, where a prisoner may be confined to a local jail pending a hearing, the date and time of placement in the jail or of notification of such placement to the Department shall be noted on the misconduct report.

Investigation

11. A hearing investigator shall gather all witness statements and other evidence necessary to conduct a hearing. The prisoner may submit written questions to the hearing investigator to be asked of a witness. The hearing investigator shall obtain answers to all questions

which s/he reasonably believes are relevant not repetitious and not a threat to the security of the facility

12. The hearing investigator may initially determine if a question should be asked or a witness contacted. However, the hearing officer has the final authority and may require the hearing investigator to obtain an answer to a question if s/he determines that an answer is needed. The hearing investigator also shall contact any other witness, and obtain any documents, which are relevant to the charge.

13. It is the responsibility of the hearing investigator to conduct a complete investigation of the charge(s) and not simply respond to the questions raised by the prisoner. The hearing officer also may interview a witness at the hearing if s/he determines this is necessary and not unduly hazardous to the safety of the facility, staff or prisoners.

14. The hearing investigator shall obtain all information requested by the hearing officer or clearly explain in writing why it cannot be obtained.

15. All staff members shall cooperate fully with the hearing officer and hearing investigator and shall comply with all requests for information or assistance

necessary to conduct a proper hearing, as determined by the hearing officer.

16. The Hearing Investigation Report (Form CAH-681) and written witness statements shall be either typewritten or completed in black ink to facilitate copying of records on appeal. It shall be the responsibility of the warden or appropriate FOA supervisor/manager to ensure that all hearing investigation reports and written witness statements are kept in designated hearing investigator files at the facility where the hearing is held. They shall be kept in chronological order by date of hearing, and in order by prisoner number, so the record can be retrieved if necessary for an appeal.

17. A copy of any information determined by the hearing officer to be confidential shall be kept with the Hearing Investigation Report and must be clearly marked as confidential by the hearing officer. Information determined by the hearing officer to be confidential is exempt from disclosure under the Freedom of Information Act. All photographs shall be attached to the Hearing Investigation Report. Any videotapes and audiotapes which the hearing officer reviews and makes a part of the record also shall be retained and clearly marked as part of the hearing record.

18. The records identified in nos. 16 and 17 above shall be retained in accordance with the Department's Retention and Disposal Schedule unless a lawsuit is filed, in which case they shall be retained until the litigation is completed. A facility will ordinarily be alerted that a lawsuit has been filed when a request is made by the Office of Policy and Hearings for a copy of the Hearing Investigation Report.

19. Physical evidence, other than photographs, may be kept in a separate place and shall be retained for at least 90 days after the hearing, or until litigation is completed if a lawsuit is filed.

Hearing

20. The formal hearing shall be held within required time limits set forth in Administrative Rule 791.5501. The day on which a prisoner is placed in temporary segregation, on toplock or in jail, or on which the report is reviewed with him/her is not counted in the time limit; however, the day on which the hearing occurs is counted.

21. The hearing officer shall ensure that all relevant evidence and testimony have been presented, and shall return the matter to the hearing investigator for further investigation if needed. The

hearing officer shall also ensure that the prisoner has had adequate time and opportunity to prepare a defense and that a reasonable and impartial investigation has been conducted.

22. The hearing shall be conducted by a hearing officer under the direction of the Hearings Administrator in the Office of Policy and Hearings. The prisoner has the right to be present at his/her hearing, but a hearing may be conducted without the prisoner if a finding is made on the record that the prisoner has failed to appear after proper notice is given or is so assaultive or disruptive that the hearing cannot be held with the prisoner present.

23. All prisoners who are placed in temporary segregation or on toplock pending a hearing, or are classified to administrative segregation or serving detention, shall be properly cuffed when brought to a hearing. Other restraints may be applied as deemed appropriate by the institution based on PD 04.05.112 "Managing Disruptive Prisoners".

24. In making a decision as to whether a prisoner is guilty of a charge, the hearing officer shall consider only evidence which relates to the specific charge or charges or their lesser included violations. Decisions shall be

based upon a preponderance of evidence. The formal hearing is not an adversarial proceeding but is rather a fact-finding process in which all parties involved have a responsibility to reveal all relevant evidence whether supportive or damaging to the person charged. Fairness is to be the paramount consideration of this hearing process.

25. It is not necessary that Miranda warnings be given during the hearings process. Statements made by a prisoner at a major misconduct hearing are not admissible in a criminal trial, except for purposes of impeachment or rebuttal. Therefore, a prisoner's silence at a misconduct hearing may be construed against the prisoner by the hearing officer.

Not Guilty Findings

26. If the prisoner is found not guilty or the charges are dismissed, no sanction shall be imposed and a report shall not be filed in any of the prisoner's files. However, a copy of the Misconduct Report, Misconduct Hearing Report (Form CSJ-24o B and D), and Hearing Investigation Report, if any, shall be retained by the hearing investigator to assist in responding to requests for rehearing and litigation. The hearing investigator shall also retain these documents in cases where a major

misconduct charge was reduced to a minor by the hearing officer.

27. It shall be the responsibility of the warden or appropriate FOA supervisor/manager to ensure that these reports are properly retained and are not used against a prisoner.

28. The hearing records for not guilty or dismissed charges shall be reviewed by the warden or FOA area manager, or designee, to monitor for any errors which have been made. Complaints as to hearing officer performance shall be brought to the attention of the Hearings Administrator.

Posting of Hearing Results

29. A copy of the completed Major Misconduct Docket (CAH-991) shall be posted by the facility in an area which is not ordinarily accessible to prisoners, but is readily accessible to staff. It shall be posted within 48 hours of the hearing date and shall remain posted for at least 72 hours. The docket shall be retained in accordance with the Department's Retention and Disposal Schedule.

CMIS Entry

30. It shall be the responsibility of the institution where the hearing is conducted and the Community

Residential Programs Section Office of Field Programs, to ensure that all major misconduct hearing results are entered onto CMIS. Guilty findings at CFA institutions shall be entered within one business day after the hearing. Guilty findings from hearings held at camps and for CRP prisoners shall be entered within five business days after the hearing.

31. If all charges on a major misconduct report result in a not guilty or dismissed finding, or if the charge(s) are reduced to minors, the hearing results shall be entered into CMIS for research and statistical reporting purposes only. Except for designated staff in the Office of Policy and Hearings and the Office of Planning, Research and Management Information Services, the results shall not be accessible by users of CMIS. After entry and auditing of this information the hearing reports used for entry shall be destroyed.

SPECIAL PROVISIONS FOR MENTALLY ILL PRISONERS

L. A prisoner who is mentally ill is not responsible for misconduct if s/he lacks substantial capacity to know right from wrong or is unable to conform conduct to Department rules. For purposes of this policy, mental illness is defined as a substantial disorder of thought or mood

which significantly impairs judgment, behavior, capacity to recognize reality or the ability to cope with the ordinary demands of life.

M. Except as set forth in Paragraphs N and 0, if a prisoner, the hearing investigator or the hearing officer raises the issue that the prisoner may not be responsible for the misconduct due to mental illness, a request for information on that issue shall be directed to the outpatient mental health team, if the prisoner is on their caseload, or to Psychological Services. If the issue of responsibility is raised by the prisoner and the hearing officer determines on the record that the claim is frivolous, a referral need not be made.

N. Whenever a major misconduct is written on a prisoner housed in a Residential Treatment Program (RTP), the unit chief or designated qualified mental health professional shall determine prior to the hearing whether the prisoner is not responsible for his/her behavior due to mental illness.

1. If the prisoner is determined to be not responsible, the Major Misconduct Report shall not be processed. The prisoner's behavior shall be documented in the health record and addressed therapeutically.

2. If the prisoner is believed to be responsible for his/her behavior, the

matter may proceed to hearing. If the prisoner is found guilty, a sanction of detention shall be given only if the qualified mental health professional has determined that the prisoner's mental health treatment needs can be met in punitive segregation.

O. A prisoner who is admitted into the Huron Valley Center, the psychiatric unit at Duane L. Waters Hospital, or a crisis stabilization unit shall not be subject to the disciplinary process. However, the prisoner's behavior and the immediate therapeutic response must be thoroughly documented in the prisoner's health record to ensure that the safety of the prisoner and others is not jeopardized by lack of knowledge of a serious incident.

P. If a Major Misconduct Report is not written or processed due to mental illness and the behavior at issue is violent or assaultive, the incident shall be discussed in the prisoner's discharge summary and other appropriate reports to ensure that it is brought to the attention of facility staff when the prisoner is no longer housed in a mental health unit. Such behavior also shall be included in the parole eligibility report when one is prepared.

SANCTIONS - MINOR AND MAJOR MISCONDUCT

Q. Upon a finding of guilt in a minor or major misconduct hearing, the hearing

officer shall impose one or more of the sanctions set forth in Administrative Rule 791.5505. Hearing officers may consider all relevant information in determining a sanction, including the prisoner's prior record of major misconduct guilty findings and any mitigating or aggravating circumstances. The facility shall provide a record of the prisoner's prior major misconduct for use by the hearing officer in determining an appropriate sanction.

R. Attachment D identifies those privileges that may be lost by a prisoner in a CFA institution as a result of a floss of privileges" sanction. For CRP prisoners, the appropriate supervisor/manager shall identify and post in an area accessible to prisoners a list of those privileges that may be lost. Unless the hearing officer identifies specific privileges to be lost, a loss of privileges sanction shall include all privileges identified on Attachment D or identified by the FOA supervisor/manager. If all privileges are lost, the hearing officer need only identify the number of days and dates during which the sanction will run.

S. A prisoner given the sanction of toplock is restricted to his/her own cell, room, or bunk and bunk area.

1. "Bunk area" is that floor area next to the prisoner's bunk which extends to the mid-point between the adjacent bunks on all sides. If a prisoner is

housed in a multiple occupancy cell or room, toplock may consist of placement in a cell/room which is designated as a toplock cell/room. If placed in such a cell/room, the prisoner shall be given the same access to his/her property which would be provided if housed in his/her own cell/room and shall be treated in all other respects as described in this definition.

2. A prisoner on toplock shall not leave his/her cell, room or bunk area for any reason without specific authorization from the appropriate staff person. The prisoner may be deprived of use of his/her television, radio and tape player while on toplock as provided in the facility operating procedure.

3. Prisoners shall be released from toplock for regular showers, visits, medical care, including individual and group therapy, and law library, unless law books are brought to the prisoner. The warden or FOA supervisor/ manager, or designee, may authorize prisoners on toplock to go to the dining room and to attend school or work assignments, or other specified activities, including group religious services. Prisoners on toplock shall have a minimum of one-hour per day of out-of-cell activity, which may include all out-of-cell activities authorized by this paragraph.

T. A hearing officer may give credit for time spent in segregation or on toplock pending a hearing, but is not required to do so. The sanction given by the hearing officer, and the time during which the sanction is to be served, shall not be changed by the facility, except as set forth in Paragraphs U and V.

U. If a prisoner has accumulated a substantial period of toplock, detention or loss of privileges to serve, the warden or FOA area manager may excuse the sanction periods that have not been served if any of the following conditions exist:

1. If requested by a prisoner and, at the time of the request, the prisoner has not been found guilty of a major misconduct for at least six months.

2. Upon recommendation of a psychiatrist or psychologist.

3. If cell space is needed in the segregation unit.

V. The sanction periods that have been excused shall be documented in writing by the warden or FOA area manager, as appropriate, and placed in the prisoner's Record Office and Counselor file. A sanction that has been excused by a warden or the head of CRP may not be reinstated at a later date.

Record Office and Counselor file. A sanction that has been excused by a warden or the head of CRP may not be reinstated at a later date.

W. If a prisoner is serving a sanction of detention, toplock, loss of privileges, or any combination of these sanctions, whether for major or minor misconduct, s/he shall not be deprived of yard for more than 30 consecutive days without being provided a seven-day break during which the prisoner shall be given the opportunity for yard consistent with his/her status (e.g., toplock - one hour per day; segregation - one hour per day for five days per week). However, yard privileges for all segregation prisoners are subject to restriction by written order of the deputy warden as set forth in PD 04.05.120 "Segregation Standards".

MAJOR MISCONDUCT APPEAL (REQUEST FOR REHEARING)

X. If the prisoner, the warden, or head of CRP disagrees with the results of a hearing, s/he may submit a request for rehearing to the Hearings Administrator. No other staff may request a. rehearing from the Hearings Administrator. The request must be submitted, using a Request for Rehearing (Form CSJ-418), within 30 days after a copy of the Hearing Report is received. The Request for Rehearing form shall be available to prisoners upon request from the hearing

officer or housing unit staff. A copy of the Misconduct Report and Misconduct Hearing Report being appealed shall be attached to the Request for Rehearing when submitted. A rehearing may be ordered by the Hearings Administrator in response to a Request for Rehearing, or on her/his own motion.

Y. A rehearing shall be ordered if any of the following occurs:

1. The record of testimony made at the hearing is inadequate for judicial review.

2. The hearing was not conducted pursuant to applicable statutes or policies and rules of the Department and departure from the statute, rule or policy resulted in material prejudice to either party.

3. The prisoner's due process rights were violated.

4. The decision of the hearing officer is not supported by competent, material and substantial evidence on the record as a whole.

5. The hearing officer was personally biased in favor of either party.

Z. A response to a request for rehearing ordinarily shall be issued within 90 days of receipt of the request by the Hearings

and Appeals Division, Office of Policy and Hearings.

AA. If the request for rehearing is denied, or the prisoner is not satisfied with the response to her/his request for rehearing, the prisoner may appeal to Circuit Court, as set forth in MCL 791.255.

OTHER ACTIONS RESULTING FROM MAJOR MISCONDUCT

BB. A prisoner shall automatically not earn the disciplinary credits or good time which would have been earned during any month in which s/he commits a major misconduct violation which subsequently results in a finding of guilt.

CC. The warden or head of CRP may forfeit a prisoner's earned good time or disciplinary credits pursuant to Administrative Rule 791.5513 due to a finding of guilty on a major misconduct violation. In all cases involving assaultive behavior, forfeiture of good time or disciplinary credits shall be ordered if the prisoner is found guilty of the misconduct.

DD. A prisoner subject to disciplinary time who is found guilty of a major misconduct violation shall accumulate disciplinary time pursuant to Administrative Rule 791.5515.

EE. Each prisoner who is found guilty of a nonbondable major misconduct shall be

reviewed by the Security Classification Committee to ensure that the prisoner is still at the appropriate security level. Each prisoner also shall be reviewed by appropriate staff to determine if the prisoners assaultive or property risk classifications have changed.

FF. A prisoner may be reclassified to administrative segregation based solely on a major misconduct guilty finding as set forth in PD 04.05.120 'Segregation Standards".

GG. A prisoner who is found guilty of major misconduct also may be referred to other appropriate staff or services, such as a psychological or psychiatric evaluation, counseling, Program Classification Committee, or security classification.

OPERATING PROCEDURES

HH. Wardens and the FOA Deputy Director shall ensure that within 60 days of its effective date procedures implementing this policy directive are developed. Wardens shall forward their operating procedures to the appropriate CFA Regional Prison Administrator for approval.

III. AUDIT ELEMENTS

II. A Primary Audit Elements List has been developed and will be provided to wardens, FOA Regional Administrators, the Hearings Administrator, and the Administrator of the Office of Field Programs to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures.

APPROVED: _____

Kenneth L. McGinnis, Director

_____

Date

ATTACHMENT A

MAJOR AND MINOR MISCONDUCT

Attachments B and C list prisoner behavior which is prohibited and subject to disciplinary sanctions. The left-hand column lists and defines the violations; any behavior that fits the definition is misconduct. The right-hand column lists specific examples of behavior fitting under the rule violation. These are just examples; other actions that fit the violation definition are also misconduct even though they are not mentioned in the right-hand column.

In addition to the violations which follow, three other kinds of charges are possible: accomplice, attempt, or conspiracy to commit a specific violation.

1. ACCOMPLICE - A prisoner who assists another to commit a specific misconduct or, after it is committed, conceals the violation from the authorities. The charge should be written as "Accomplice to Assault," for example, and the report must describe what the prisoner allegedly did. Examples of being an accomplice include acting as a 'lookout', holding down a victim, and allowing use of cell/room for commission of a violation.

2. ATTEMPT - A prisoner intends to commit a specific rule violation and does something towards committing it, even though s/he may not have succeeded.

3. CONSPIRACY - A prisoner intends to commit a specific violation ~ agrees with at least one other person to commit the violation. No action is necessary.

A prisoner charged with a misconduct violation for possession of an item found in an area over which s/he has control, and has been assigned responsibility for, will be presumed to have possessed the item. The prisoner shall have the burden of proof in rebutting this presumption. A prisoner's area of control includes:

1. Assigned room or cell, including door track or frame;

2. If assigned to a multiple occupancy room or area, that part of the room assigned to the prisoner, including bed, locker, and surrounding wall, floor and ceiling space;

3. Any personal property belonging to the prisoner, unless it has been reported as stolen;

4. Area of work or school assignment for which prisoner is responsible.

Many rule violations necessarily include other less serious violations. A lesser included violation would contain some, but not all, elements of the greater charge. For example, a lesser included violation of Assault and Battery is Threatening Behavior; Insolence is a lesser included violation of Threatening Behavior; and Creating a Disturbance is a lesser included violation of Inciting to Riot. If a prisoner is charged with misconduct, and the evidence does not support the particular violation charge, but does establish a lesser included violation, the hearing officer has the authority to find the prisoner guilty of the lesser included violation.

ATTACHMENT B

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
001 (escape from Level I or community placement) 050 (escape from secure facility).	* <u>Escape</u> Leaving or failing to return to lawful custody without authorized time or location limits (a) when released for work pass; (b) while on a public works crew; (c) while residing in a community residential home under electronic monitoring; or (d) during an authorized absence from work, school or other activity while residing in a community corrections center.	Leaving from hospital trip or while housed at hospital; unauthorized change of approved destination on work pass or in community programs. (NOTE: Hiding from authorities even if still on prison property should be attempted escape.)
002	<u>Felony</u> Any act that would be a felony under state law is also a major misconduct violation. Reference shall be made to the specific statutory citation in all cases where this charge is alleged.	Breaking and entering – MCL 750.110. (NOTE: Use this charge only if there is no other specific violation which is applicable).

NOTE: The first number of the CMIS code for compliance to any Misconduct should be 1, for attempt 2, and for conspiracy 3 (e.g., attempted escape would be 201).

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
003 (prisoner victim) 004 (staff victim) 005 (other victim)	* <u>Assault Resulting in Serious Physical Injury</u> Physical attack on another person which results or is intended to result in serious physical injury. Serious physical injury means any injury which requires medical treatment.	Attach using a knife, club, or other weapon; assault involving use of closed fists, kicking.
007 (prisoner victim) 008 (staff victim) 009 (other victim)	* <u>Assault and Battery</u> Intentional, non-consensual touching of another person done either in anger or with the purpose of abusing or injuring another; physical resistance or physical interference with an employee. Injury is not necessary but contact is.	Throwing urine or feces or spitting on another person; physically resisting staff efforts to apply restraints. (NOTE: The victim of an assault and battery should not be charged with a violation of this rule.)
010	* <u>Homicide</u> Causing the death of another person by any means.	

NOTE: The first number of the CMIS code for compliance to any Misconduct should be 1, for attempt 2, and for conspiracy 3 (e.g., attempted escape would be 201).

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
012	* Threatening Behavior Words, actions or other behavior which expresses an intent to injure or physically abuse another person. Such misconduct includes attempted assault and battery.	Threat of sexual assault made by one prisoner to another prisoner; writing threatening letter to another person; threat made to a third person.
013	* Sexual Assault Sexual penetration of, or sexual contact with another person without that person's consent; non-consensual physical contact for sexual purposes.	Rape; intentional touching of sexual area (e.g., buttocks, breasts, genitals) without consent; kissing or embracing without consent of one who is kissed or embraced
014	* Fighting Physical confrontation between two or more persons, including a swing and miss, done in anger or with intent to injure.	Fights between prisoners, whether with fists, broom handles or other weapons.

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
017	* Failure to Disperse Failure or refusal of a prisoner to leave an area in which a disturbance is occurring when the prisoner is physically able to leave; includes obstruction of staff at the scene of the disturbance. Disturbance is defined as a fight between prisoners, subduing or taking into custody of a prisoner or prisoners by staff, destruction of property, or any similar action or occurrence.	Preventing a staff member from coming to the aid of a fight to observe or offer encouragement to combatants; blocking staff who are removing a prisoner from an area.
020	Disobeying a Direct Order Refusal or failure to follow a valid and reasonable order of an employee.	Refusal to submit to a shakedown; fleeing from an officer after being directed to stop.

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
021	Possession of Forged Documents; Forgery Knowingly possessing a falsified or altered document; altering or falsifying a document with the intent to deceive or fraud; unauthorized possession or use of the identification card, prisoner store card, pass, or detail of another prisoner.	A fake pass, application, furlough paper, etc. which is represented to be true; possession of postage stamps with "washed" circulation markings.
022	* Incite to Riot or Strike; Rioting or Striking Advocating or instigating actions which are intended to seriously endanger the physical safety of the facility, persons, or property or to disrupt the operation of the facility by group cessation of normal activity; participation in such action; joining others in unauthorized work stoppage.	Encouraging other prisoners to take group action to injure staff, destroy property, or disrupt normal operations; refusal of prisoners as a group to leave the yard when instructed by staff to do so.

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
023	Interference with the Administration of Rules Acts intended to impede, disrupt, or mislead the disciplinary process for staff or prisoners, including failure to comply with a loss of privileges sanction imposed by a hearing officer.	Intimidating or tampering with a witness; tampering with evidence; interfering with an employee writing a misconduct report; making false accusations of misconduct against another prisoner or staff which results in disciplinary action being initiated against the person. (NOTE: should not be charged as retaliation for the writing of a grievance; if written as result of a grievance; it must be shown that prisoner know allegation was false when s/he made it and intentionally filed a false grievance. Ordinarily, the statement of staff member refuting the claim will not e be sufficient.)

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
024	Bribery of an Employee Offering to give or withhold anything to persuade an employee to neglect duties or perform favors.	
026	Insolence Words, actions, or other behavior which is intended to harass, degrade or cause alarm in an employee.	Using abusive language to refer to an employee; writing about or gesturing to an employee in a derogatory manner.
027	Destruction or Misuse of Property with Value of $10 or More Any destruction, removal, alteration, tampering, or other unauthorized use of property which has a value of $10 or more.	Tampering with locking device; use of door plug; destruction of property belonging to another person; unauthorized use of a telephone or using another prisoner's Personal Identification Number (PIN) to make a telephone call.

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
028	Failure to Maintain Employment Failure of a prisoner in community residential or work-pass programs to immediately report to appropriate department staff any absence from employment or training for illness, layoff, termination, or any other reason; failure to obtain prior staff approval for planned absences from, or voluntary termination of, employment or training.	(NOTE: Applies only to prisoners in community programs and on work-pass)
029	* Possession of a Weapon Possession of any item designed or intended to be used to cause or threaten physical injury to another person.	Possession of a prison-made knife, club or any item fashioned to resemble a weapon.

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
030	* <u>Possession of Dangerous Contraband</u> Unauthorized possession of explosives, acids, caustics, toxins, materials for incendiary devices, escape materials, detailed road maps for any area within the detailed road maps for any area within the State of Michigan, adjacent state or Ontario, Canada, exempt policy directives, operating procedures or other restricted documents; possession of bodily fluids stored in a container within a cell or room; possession of critical tools and materials or dangerous tools and materials as defined by policy; includes failure to return any item covered by the definition which is signed out for a work or school assignment or any other purpose.	Possession of gasoline, butane lighter, toilet bowl cleaner, rope and grappling hook, screwdriver, or hammer. (NOTE: Possession of any item covered by this definition with the intent to cause physical injury should be charged as Possession of a Weapon.)

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
031	<u>Possession of Money</u> Possession of unauthorized amounts of money or money from unauthorized sources. Money is defined as either case, negotiable instrument, credit card or blank check.	No money is authorized in institutions.
032	<u>Creating a Disturbance</u> Actions or words of a prisoner which result in disruption or disturbance among others, but which does not endanger persons or property.	

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
033	Sexual Misconduct Consensual touching of the sexual or other parts of the body of another person for the purpose of gratifying the sexual desire of either party, except that an embrace of a visitor at the beginning and end of a visit, or holding hands with a visitor during a visit is not sexual misconduct; intentional exposure of the sexual organs to another person in a location or manner where such exposure has no legitimate purpose; imitating the appearance of the opposite sex; words or actions of a sexual nature directed at another person in order to harass or degrade that person.	Kissing, hugging, intercourse, or sodomy; exposure of sexual organs when prisoner knows officer will be making rounds; wearing clothing of the opposite sex; wearing of makeup by male prisoners; whistling at and making sexual remarks to another person; making propositions of a sexual nature. (NOTE: Threats of sexual assault should be charged as Threatening Behavior.)

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
034 (alcohol) 039 (marijuana) 040 (heroin/ morphine) 041 (cocaine) 042 (other substance) 043 (drug test refusal) 044 (narcotics paraphernalia)	Substance Abuse Possession, use, selling, or providing to others, or being under the influence of, any intoxicant, inhalant, controlled substance (as defined by Michigan statutes), alcoholic beverages, marijuana or any other controlled substance which is used to cause a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system; unauthorized possession of use of prescribed or restricted medication; possession of narcotics paraphernalia; failure or refusal to voluntarily submit to substance abuse testing which is requested by the Department for the purpose of determining the presence in the prisoner of any substance included in this charge.	Narcotics paraphernalia includes such items as marijuana and "crack" pipes, needles and syringes which are used to administer narcotics, but does not include such items as "roach clips" and cigarette papers; failure to return prescribed or restricted medication after its authorization date has expired.

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
035	Unauthorized Occupation of Cell or Room Being in another prisoner or prisoners' cell or room, or clearly defined living area, without specific authorization from staff, being present in any cell, room or other walled area with another prisoner or prisoners or a member or members of the public without staff authorization.	Two prisoners in a "one-person" cell; being in a room, cell, bay, cubicle or other area to which the prisoner is not assigned; two prisoners in a restroom stall; prisoners and member of the public in prisoners' restroom or visiting area restroom.
036	Out of Place Being within the lawful boundaries of confinement and not attempting to escape, but in a location without the proper authorization to be there; absent from where one is required to be; breaking toplock without authorization; being outside assigned housing unit without prisoner identification card; being absent from required location during count.	"Skating" in another block; no pass; no I.D. card; failure to be required by detail; failure to remain on own bunk or other location as designated by facility rules during count. (NOTE: "Skating" in own housing unit during the day is a minor unless on toplock status.)

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
037	Theft, Possession of Stolen Property Any unauthorized taking of property which belongs to another; possession of property which the prisoner knows, or should have known, has been stolen.	
038	Gambling; Possession of Gambling Paraphernalia Playing games or making bets for money or anything of value; possession of gambling equipment, or other materials commonly associated with and intended for wagering.	Possession of dice, betting slips, point spreads, items used as counters in a card game, and similar items.

ATTACHMENT B (CONTINUED)

CMIS CODE (See Note Below)	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
045	Smuggling Bringing or attempting to bring any unauthorized item into or out of a correctional facility or a specialized area or unit within a facility such as segregation.	Receiving jewelry, shoes, etc. during a visit. (NOTE: possession or attempted possession of money should be charged as Possession of Money, controlled substances as Substance Abuse, weapons as Possession of a Weapon, and any item that is dangerous contraband as Possession of Dangerous Contraband.)

ATTACHMENT C

CMIS CODE	MAJOR RULE VIOLATION	COMMON EXAMPLES
(All are coded 049)	Misdemeanor Any act that would be a misdemeanor if prosecuted under Michigan law is also a minor misconduct violation, unless specified elsewhere as a major. Reference must be made to the specific statutory citation all cases where this charge is alleged.	Larceny under $100 – MCL 750.356.
	Abuse of Privileges Intentional violation of any departmental or institutional regulation dealing with prisoner privileges unless it is specified elsewhere as a major.	
	Contraband Possession or use of non-dangerous property which a prisoner has no authorization to have, where there is no suspicion of theft or fraud.	Possession of unauthorized items or anything with someone else's name or number on it; having excessive store items or tokens.

ATTACHMENT C (CONTINUED)

CMIS CODE	MAJOR RULE VIOLATION	COMMON EXAMPLES
(All are coded 049)	Health, Safety or Fire Hazard Creating a health, safety or fire hazard by act or omission.	Dirty cell; smoking in unauthorized areas; lack of personal hygiene.
	Temporary Out of Place/Bounds In own housing unit during the day; out of place for a brief time or adjacent to where supposed to be.	
	Unauthorized Communications Any contact, by letter, gesture or verbally, with an unauthorized person or in an unauthorized manner.	Love letters to another prisoner; passing property on a visit either directly or through a third person.
	Violation of Posted Rules Violation of rules of community residential programs, housing units, dining room, furlough, work or school assignment which is not covered elsewhere.	Violation of kitchen sanitary regulations; wasting food; excessive noise in housing unit, playing TV or radio without earphone; unauthorized driving or motor vehicle; failure to report income in CRP.

ATTACHMENT C (CONTINUED)

CMIS CODE	MAJOR RULE VIOLATION	COMMON EXAMPLES
(All are coded 049)	Horseplay Any physical contact, or attempted physical contact, between two or more persons, done in a prankish or playful manner without anger or intent to injure or intimidate.	Towel snapping at others in showers; playful body punching.
	Lying to an Employee Knowingly providing false information to an employee.	Giving a false name, number or room/cell assignment. (NOTE: making false accusations of misconduct is included under the major misconduct is included under the major violation of interference with administration or rules.
	Destruction or Misuse of Property with Value of Less Than $10 Any destruction, removal, alteration, tampering, or other misuse or property which has a value of less than $10.	

ATTACHMENT C (CONTINUED)

CMIS CODE	MAJOR RULE VIOLATION	COMMON EXAMPLES
(All are coded 049)	Excessive Noise Creation of sound, whether by use of human voice, a radio, TV, or any other means, at a level which could disturb others.	Playing TV or radio above allowable level; banging objects against cell bars.

ATTACHMENT D

Unless the hearing officer identifies specific privileges to be lost, all of the following privileges will be lost by a prisoner in a CFA institution as a result of a "loss of privileges" sanction":

A. Day room, activity room, TV room, study room, or other designated area where these activities occur.

B. Exercise facilities, such as yard, gym, and weight room/pit.

C. Group meetings, such as bible class and Jaycees, but not including primary religious worship service.

D. Hobbycraft.

E. Kitchen area, including microwave, ice machine and hot water dispenser.

F. Library (general library only; not law library or mini-law library).

G. Movies.

H. Music practice; musical instruments.

I. Prisoner store, except for the purchase of mandatory health care products, over-the-counter personal care products, hygiene products, and the postage equivalent of up to 10 first class stamps.

J. Radio, tape player, television.

K. Recreational details, leisure time, and special activities, such as athletic tournaments and singing groups.

L. Telephone, except calls to the Office of Legislative Corrections Ombudsman and to return calls from an attorney upon request of the attorney.

M. Visiting, if the misconduct occurred in connection with a visit, and only with the visitor named in the hearing report.

DIRECT EXAMINATION
BY MR. LEVINE:

Q Would you please give us your name for the record?
A Ysabel Benejam. Y-s-a-b-e-l B-e-n-e-j-a-m.
Q And where do you reside?
A I live in West Bloomfield.
Q And how long have you lived there?
A Eleven years.
Q And what is your occupation?
A I'm the financial manager for my husband's business.
Q And what does your husband do?
A He's is a pediatrician.
Q And how many children do you have?
A Four.
Q Could you tell me their names and their ages?
A Yes. Sonia, she is twenty-four, Mario, which is he

going to be twenty-two, Alisha, she is twelve, and Lalani which is ten.
Q And does Sonia have children?
A Sonia has two children.
Q And how old are they?
A Four and two.
Q And where is Mario now?
A Mario is in the Chippewa Correctional Facility.
Q What year was he sentenced?
A In 1996.
Q And so how old was when he went to prison?
A He was, when he first arrested, he was sixteen.
Q When he was first arrested?
A Yes.
Q And then when he went to prison he was --
A He turned seventeen.
Q And how old were Alisha and Lalani then when

Mario
went to prison?
A Five and seven.
Q And how long was Mario sentenced to?
A Twenty to forty.
Q When does he first become eligible for parole?
A In the year 2013.
Q 2000 --
A 2013.

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Q What was Mario's relationship with his sisters before
he went to prison?
A It was very friendly, very good. He was very proud
of the girls. They had a very good relationship.
Q There is an age gap. What would he do with the girls?
A Well, he help a lot when I first had the girls, you know. My Alisha, he would help to change diapers and
babysit and feed her and he participated a lot with the girls.
THE COURT: I'm sorry. Could you tell me their ages again?
THE WITNESS: Alisha is twelve and Lalani
is ten.
THE COURT: So they were five and seven when he went to prison?
THE WITNESS: Yes.
Q (Continuing, by Ms. Levine): Have the younger ones
seen him since he went to prison?
A No, no.
Q Has he ever seen his niece and nephew, Sonia's children?
A Never.

Q And why has he not seen the children?
A Because he is not allowed to visit. They are not

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allowed to visit.
Q What facilities has Mario been in since he went to the Department of Corrections?
A Okay. Mario been to Ionia for those -- for quarantine and then he went to Carson City. And after Carson City he went to Brooks and after Brooks
now he has been there for like ten months in Chippewa.
Q And when you say Ionia, was that the reformatory?
A Yes.
Q That was just the reception center for the younger guys?
A What they call the quarantine, the forty day quarantine.
Q And where is Brooks?
A Brooks is in, I can't think of it right now.
Q Is it the west side of the state?
A Yes. Brooks is in -- where is Brooks?
Q Is it in Muskegon?
A Muskegon. I'm sorry, yes, Muskegon.
Q And Chippewa is where?
A Chippewa is passed Mackinaw Bridge.
Q So it's in the Upper Peninsula?
A In the Upper Peninsula.
Q How often do you visit?

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A I try to visit as often as possible but I make it sometimes three and sometimes four times in a month.
Q Even to Chippewa?
A Chippewa I have been going two to three.

Q What other family members go?
A His father, my husband, my mother, his sister, cousins.
Q Sorry? Sonia?
A Yes.
Q Sonia can go?
A Yes.
Q Lalani cannot?
A No.
Q I would like you to tell us briefly about the visiting rooms at each of the prisons that Mario has been at. And I would like to start with Carson City.
A Okay.
Q Can you just describe the visiting conditions there, what the room was like and what it was like to be there?
A Carson City is a very clean room. It's very open. And they have a corner for the children to play. They have books and toys and it's very friendly, you know. People don't interact one with each other. Each family keep to their own. And when I have seen

children there, they keep, you know, togetherness in their own little group. And everything has been very peaceful and quiet and great.
Q Was it crowded at Carson City when you visited?
A It's never been overcrowded. Never did I have to leave the facility because of overcrowdedness or anything like that.
Q Did you ever see any problems in the visiting room?

A No, I have never seen anything negative going on in the room. Everything is very well arranged where there is plenty of cameras and there is no really -- nothing negative.
Q Is there an officer in the visiting room?
A Pardon me?
Q Is there a guard?
A There is always guards. Always guards watching so there is definitely nothing goes by that they cannot see.
Q What about in the waiting area, waiting to get in at Carson City? Did you ever see any problems there?
A No, I have never encountered any negative thing going on.
Q Did you ever observe any behavior by any prisoners or their visitors that you wouldn't want your younger girls to see?

A No. By all means, everybody behaves very well and everybody keep to themselves.
Q Is there anything about either the visiting rooms or the waiting room at Carson City that would make you hesitate to bring your daughters to visit their brother?
A No, I would not hesitate a minute.

* * *

Q Okay. Could you tell us what it's like when you first arrive?
A When you first arrive you go and sign in at the front desk and then you are greeted by the officer. Then she takes your -- once you sign in, she takes the prisoner's number and the ID and then she goes through the computer to make sure that you are the right visitor and then she will call in for the prisoner to come in.
And about a fifteen, twenty minute process, you wait and they will take you through the doors where you go through the metal detector and then they do a pat search, a lady with a lady and a man for a man, of course. And then you go get the visitor pass and you do right through it and you greet the prisoner which your only contact, hugging and kissing for the first, you know, your son or your daugher, whatever, just one quick hug, they allow you to do that, and then you go sit down. They tell you which table to choose, you know. They assign you to a table which there's usually a table in the middle and then the seats are around it.
Q And is the process for checking into the facility the

same whether it's going to be a contact or non-contact visit?

A Yes, pretty much. They don't do as much when you are -- they don't -- sometime they don't even pat you down when you're in the non-contact. But I don't know.
Q Oh, really?
A Yes. But I don't know why, because, you know, you are going to be behind the glass or you go through the metal detector, definitely.
Q Let's go back to the girls. How have Alisha and Lalani reacted to not being able to visit Mario?
A Extremely upset, sad, and it was time where at the beginning when this happened, which is my little one, went through this crying spell. It was an every day thing, every day, every night. She, I thought she was going to get really sick because it was effecting her tremendously. And she was showing it. So I had to take her to a psychologist because --
Q Lalani?
A Uh-huh.
Q How has Mario reacted to not being able to see his sisters?
A Oh, he is very sad about it and very disappointed that he can't see his sister because there is so many other children that visit there and I can't compare

why we try to say, why can't his sister go and other kids having a stepfather or, you know, or a legal guardian there is not even a relative, blood relative

can visit, and him can't visit. The sister can't visit his own brother.
Q Has he expressed any particular concerns about what might happen as a result of not seeing them for a prolonged period?
A He feels that -- he has mentioned the fact, oh, that when I get out of here they are not going to really know me. Are we going to be able to really have the same sister/brother relationship because after they grow up and they get older, how is this going to effect us? You know. And he's worried about that.
Are they going to love me the same, you know.
Q So do they talk on the phone?
A Yes, they do talk on the phone. But at this time, the phone calls are very limited. He is only in Chippewa -- it's only one phone call per day and you got to choose your attorney or your family. So if you make a call to your attorney, that's it. You can't call the family.
Q What are those phone calls like, even when he can make them?
A Very upsetting because you cannot even establish a

conversation. You imagine, in fifteen minutes you get this recorder that tells you this is a facility and this and like, a little recorder which they knock down three to four minutes, I'm sure, for each call and you forget where you left off and then you got to start the conversation, you got hurry up to make, you know --

Q You're saying that the recording comes on more than once?
A Often. Too often. Way too many times. Too often.
Q Then what happens at the end of fifteen minutes?
A Oh, they just hang up. It goes, your call is terminated. And we left sometime, sometime we leave and we didn't even say I love you or goodbye or I'll see you. Just hung up, you know. It hangs up.
Q Are you aware that the calls are monitored?
A Oh, yes, yes. As soon as you get the call they say it's being listened to.
Q Do you think these calls are an adequate method to maintain a brother/sister relationship for a period of ten or twelve years?
A Well, I guess when she, you know, they are almost teenagers now and I'm sure there are many things they are going to be aware that they are being listened to. So, I mean, it's not going to be anything. But,

you know how kids can be. So, it's lot of things that you cannot really talk about it, you know. And there's personal things sometimes you like to share with your loved one or whatever but you just, you know they are listening. Sometimes you wonder, oh, are they laughing about it or making fun or what's going on or who is the one listening or, you know, it's uncomfortable, yes.
Q say Lalani in particular was very upset about

Mario's -- not being able to see Mario?
A Yes.
Q How did she react to the phone calls?
A She gets very emotional. She still gets a knot in her throat which she, if she talk more than two minutes with him on the phone, she cries. It's very emotional for her that she can't seem to be able to get over. Five years and she still feels the same way. She can't way until the day when she sees him and hugs him and see him again.
Q How do the girls react when you go visit him?
A Well, they ask me once over again and again, can we go yet? Can we go yet? When are we going to be able -- did you talk to the judge? Did you tell the judge? And they think it's just, you talk to the judge and the Judge says, yes. I said, no. I'm trying. I

will, I promise. I'm always promising them. I feel like I'm saying false promise here because they go, you said maybe in two years we were able. It's been five already. And so, it's very sad. Extremely sad.
Q As a parent -- you just said you feel sad about it. How do you feel about your children not being able to see each other?
A I feel that to be a part of a rehabilitation program, it should be interaction with their siblings. I feel that my girls are being punished, you know, and I just feel that it's just really absurd that the siblings can't see each other.
Q Do they write letters at all now that they're older?

A Yes, they write letters but it's not the same. Sometimes I ask them, did you write back? Or like right now, Sunday is his birthday and what are we going to do? We will remember him on his birthday, and, you know, we talk about it and send him cards but, you know, it's a sad thing. It's just his birthday and they can't even go see him and, you know, I would like very much for them to be able to see him.
Q And what specifically is it about seeing him that's different from getting news in a letter or hearing his voice on the phone?

A It's not the same. It's like you're having a relationship with somebody, like your parents or you have a sister and you knw that you always want to see your siblings or your loved ones. You just don't want to write. And you lose that because a lot of times now, he said you don't write me as much. I used to write everyday. And it was like we never got an answer from each letter because we write so often that we don't know what we even saying anymore. So, it's like, oh, it's just getting stressful and the daily routine. Everyday is so tiring. The kids have tons of homework, lots of homework, and they, everytime they, you know, they get things, good things happen, they write right away him and ask

for
his approval. They try but it's not the same.
Q Would you bring the girls to visit now even if the visit has to be non-contact knowing what the non-contact visits are like?
A Oh, yes. Any way they can see him, I would like to
have it.
Q Would you bring your grandchildren?
A Oh, God, very much, very much. Yes, immediately.

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DIRECT EXAMINATION
BY MS. LEVINE:
Q Kate, where do you live?
A Jenison, Michigan.
A I'm sixteen.
Q What year in high school are you?
A I'm in eleventh grade, so I'm a junior.
Q And how are you doing in school?
A Pretty good. My GPA is 3.954.
Q I would say that's pretty good.
MS. WARD: Your Honor, I can't hear the witness. Could you ask her just to speak up.
THE COURT: Why don't you use the microphone? You have kind of a soft voice.
THE WITNESS: Sorry.
THE COURT: You can lift it up. You can

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actually pull it so it's right up in front of you.
Speak right into it.
THE WITNESS: All right.
THE COURT: There you go.
Q (Continuing, by Ms. Levine): Say those grades again.
A I have a 3.954 GPA, Jenison High School.
Q Are you involved in any extra curriculuar activities?
A I play tennis and I'm also involved in like the theater program at our school and all parts of it. And I'm also in the chorale.
Q And tell us a little bit about that.
A About the choir?
Q The chorale.
A We have a really good choir director and it's like,

it's not just a class at our school. It's very like involved and outside of school.
Q So this is a major activity?
A Yes, it's a commitment to be in the class.
Q Do you have your driver's license now, Kate?
A Yes.
Q Do you have brothers and sisters?
A Yes.
Q Could you tell me their names and ages?
A Stacey is my oldest sister. She is twenty-three. And Jon is my older brother and he is nineteen.

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Q Could you tell us a little about Jon? What is he like? What is his personality?
A Jon, he has a really good sense of humor. He is happy. He's one of the nicest people I know. He never has anything bad to say about anybody. He is real outgoing and real adventurous and likes to just try everything. And he's a little hyper and he has been since he was little. He has ADHD so he was just a real severe case. He's been on Ritalin since he was four years old. Once you get older the Ritalin doesn't quite do what it used to. And so he's gotten into trouble from some of that. I think a lot of it – there is just a lot of impulsiveness to his personality that might have gotten in the way of some things. But he's not at all mean-spirited. I mean, he's always has been a great brother to me.
Q And tell us about that. What was your relationship with him as you were growing up?
A We were very close. I mean, he was just excited about me and like that made me feel real welcome

since I was little. And he has always, you know, wanted to take me with him places and he has always showed, like he showed me how to do a lot of stuff that I know how to do in terms of he used to play all kinds of sports and I learned how to play baseball

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from him and soccer and basketball. And he like included me with his friends and he was always real proud of me for the things I did. And he gave me a lot of my self confidence really because he thought I was great. And so I liked to be around him because he was a lot of fun and he was always doing something to make me laugh. And so I would say we were pretty close.
Q Were there any special activities that you shared just between the two of you?
A Well, I mean, when we were little little, we played games together and stuff like that that were just the between the two of us, the usual brother/sister relationship. And we both really like music and we were both like, I mean, part of the reason I got into choir was because of my brother. And we both were in the choir together when he was in high school and I was in junior high. And even my choir director asked me about him because he liked Jon a lot and he wanted to make sure that he is still doing okay.

Q Where is Jon?
A Jon is in prison right now.
Q And before he went, before he went to prison, was he in a jail first?
A Yes, he was in the Ottawa County Jail and Kent County

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Jail.
Q Let's start with the Ottawa County Jail. That was the first time he was incarcerated was in the Ottawa County Jail?
A Yes.
Q How old was he?
A For Ottawa County, he was sixteen.
Q How old were you then?
A If he was sixteen I would have been around thirteen.
Q Did you visit him there?
A Yes.
Q What was it like?
A It was -- they didn't make it like the best facilities, but it was like a room. It was a non-contact visit. And you would just go in with your family and you would go in and there would be two prisoners, so two families could visit at the same time. And we just, we would wait for a little while and we would go in and we would talk to him. And, I mean, it was really cramped but it was, you know, it was just like, you know, I would sit on my sister's lap if I had to. We just all would sit there and talk and I think it was, it was pleasant.

It wasn't at all like a sad thing to do. It was just what we did because that's how things were. He was

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in jail. So we went and visited him in jail because it wasn't going to break up our family that he was in jail.
Q When you say non-contact --
A We talked on the phones.
Q Was there glass between you?
A Yes.
Q Now, he went to jail the second time?
A Right.
Q And that was in --
A Kent County.
Q And what was that like?
A Kent County was a lot nicer. It was a lot bigger. And it's a newer facility, where Kent County Jail, they just built it a couple years ago. And the facility there was really nice and you went in and it was this huge room. And because the building is like circular, the visits were very private because it was still a non-contact visit but there was dividers between the prisoners. And it was comfortable and it was a big room and you didn't at all feel like, you know, you could, you just after a while you just forget there was even like, that you were at a jail and there was glass between you. It was like, I thought it was okay. There was light in the room and

it wasn't bad at all.
Q And was there a third facility even that Jon -- a jail that he was at?
A He was at Baldwin for a little while, just as like a holding place, I think.
Q Did you visit him there once as well?
A I visited him there once. That was the last time I saw him before he went to prison.
Q When did Jon go to prison?
A In 1998, in the winter.
Q Do you miss seeing Jon?
A Yeah, I do.
Q Can you tell us what in particular you miss, you feel that you miss by not seeing him?
A I miss all the things about him that, you know, when I think about him that I remember like the way he laughs and just like things like that. And I miss him, you know, being able to see me and being able to like, like know how I am at this age and like I miss being able to like carry on a conversation with him because we, you know, when we talk we play off each other and it's pleasant. And I miss that. And I miss, you know, having him be a part of my life, I guess.
Q Do you feel like you have changed a lot in the last few years?
A Definitely.
Q Do you feel like you have a good sense of what's happening with Jon?
A I think as I get older I would have a better sense. When I was younger, maybe things were a little bit foggier. I didn't really understand. It sounded pretty complicated and I was just, you know, I understood where he was but I didn't know all the details of like the legal things and what was happening. But like now as I go back through it, it's starting to make sense to me.
Q Do you feel you have a sense of what's happening to him now on a day-to-day basis, what his life is like and how he is feeling?
A I don't know what it's like to be in prison and I don't know what he is going through. And, I mean you know, I can watch, like you see things about prison on T.V. or in the movies or something. But you never know if that's what it's really like. And, I mean, he will tell me some things but I don't know if he is like, you know, really scared deep down inside or he just doesn't want to talk to me about it over the phone or something. But, I mean, he's not like a part of my day to day life, so I'm not really

a part of his either unless he is thinking about me or something.
Q Are there particular times when you have missed him especially?
A Just because it's like human nature. It's like when things are really sad you don't want to just, you know, well, for me anyway, I don't just like to, I don't always want to deal with it right away. And sometimes I just like bottle up the emotions of it and, you know, just to like, when I can remember being like in choir and being in the rehearsal or the

church where we practice with all the choir together
and being there with my brother and it was just really sad and it just kind of hit me that I hadn't, because it was like a year, it was almost like it had been a year since I had seen him and it just hit me. It had been so long since I had seen him and just like that I even touched him or been near him or anything. And I just was like crying and just, I just went home because I didn't know what else to do.
You know. I guess there is a lot of emotions that go along with things like that and when you're younger it's hard to always deal with them as they come and handle things the right way.
Q You have a best friend?

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A Yes, my best friend, Holly, her mom used to babysit for Jon and I when we were little and her brother is Jon's age and Holly is my age. And so, we would just
go over there and it was just like the four of us because we were equal in ages. And when I got into high school and Jon wasn't there and I saw how her relationship was progressing with her brother and how
much it had changed and how it changed her because
she used to be the most insecure person. And like once she got into high school and was with her brother, it was like, I mean, he gave her some of her security. And it was -- they kind of, their relationship matured and they were, you know, like it
was at another level. I realized like, with my

brother, it's like our relationship has pretty much stopped since the last time I saw him when I was fourteen.
Q Was there an incident, another incident when you had
your wisdom teeth out?
A Yes. I guess, well, I mean, it's just like sometimes things can creep into your unconscious. When I got my wisdom teeth out I was under an anesthetic. It was embarrassing because I woke up and I was just, I
was having this dream about like Jon. And I was sitting there with like gauze in my mouth and like

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bleeding and all weird and crying about Jon then and
they didn't know what I was talking about. I mean because it's just, you know, there is a lot of pain when you can't see someone that you are close to. And I guess sometimes I didn't realize how much it
hurt me until I let myself just like feel all those emotions about it.
Q Did you have a particularly difficult personal problem to deal with shortly after Jon moved to prison?
A It was kind of, it was really in sequence to when he went to prison. I developed an eating disorder a couple, a month or so after. I mean, I mean, the thoughts started like then, and then, it's such -- like it takes a long time and it's not just like that type thing, but it was right around the time that he went to prison. And then like just it got worse. It didn't get better for a long time.
Q And what was the name of the disorder?

A Anorexia Nervosa.
Q Do you think that not being able to visit Jon had an impact on your ability to cope with the anorexia?
A Well, he was one of my biggest support systems when I was -- my whole life. And he couldn't see me and he couldn't know exactly what I looked like and he would

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just write me letters and try and like give he encouragement that he could. But, I mean, it was like, it was like he was just out of my life all together. I mean, he was only like two hours away but there was just no way that I could ever see him and have that one-on-one contact with him and have him tell me that I was going to be all right and that I could do this and stuff like that. And so, you know, I had to do it on my own and I realized that after a while that, I mean, I don't have him here anymore and I have to take care of things by myself.
Q Does your family visit Jon?
A Yes, they visit him a lot.
Q Who goes?
A My mom and my dad and my sister and we have had cousins visit him and my grandparents have visited him and his girlfriend. And I think that's it.
Q How often does -- do your parents go?
A There is like only so many visits but they use the full amount every month or however it's divided up. They don't like -- I'm not sure exactly how.
Q Do they go as often as once a week?
A No, not quite that often because they split the visits between --

Q -- other people?

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A Right.
Q But do they go once or twice a month?
A Oh, yeah.
Q And your sister, Stacey, is she able to go?
A Yes, she is because she is twenty-three.
Q How do you feel about the fact that other family members, including your sister can go and you can't?
A Well, I think it's pretty unfair because, you know, they can be there for him and I can't and he can be a part of their lives and he can't be a part of mine. You know, I'm just as much his sister as Stacey is and it's like, you know, I just kind of get left behind. I get left out when they go. I know what happens because I know how our family is together. I know they are laughing and things are happening and I know that I'm missing out on that and I'm just at home by myself.
Q Is being at home by yourself while your parents are visiting Jon, was that particularly problematic at the time you were dealing with the anorexia?
A Yeah, because it's like, when it got really bad, it was to the point that I needed somebody to be there with me and I needed like to feel like, I don't know, because it's such -- the anorexia it's something that is very much in your head and it's very much, you are

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just tormenting yourself, sort of.

And when my parents would go away it would be for so long because it was quite a drive there and they would visit and come back. And a lot of times when I was just by myself, just like anxiety would set in and like this isolated feeling because it was like my family was all together and I was getting left every single time. And like the first couple of times it was like, okay. But after a while it's like, I just want to go. I don't want to be left again. And I was at home by myself and my anxiety level would just, it would just go up and up and there was nothing I could do about it. And the anorexia turned to bulimia and it was just like I was by myself and I didn't know what to do anymore and I would like try and call my friend and just to have someone to talk it through. When my parents would get home I would be such a mess because I was home by myself all day with my own thoughts and it was just really an awful thing to think about happening.

Q When your family came back, did they tell you about the visits when they got home?

A They tried to talk to me about it. I think that it's, I mean, they don't know want to tell me a lot

of times because, besides that he's doing okay, because I wan't there, I don't know what happened exactly or what he looked like or what his state of

mind was or, you know, how, I don't know, he was feeling lately. I get left out of those conversations pretty much just because I wasn't there.

Q What do you think it would be like if you could visit him -- you say your family laughs a lot when they are together. What do you think -- how would it feel or what would the visit be like if you were there? What would you imagine it would be?

A I imagine if we all went to visit him together it would be, I think especially since lately, from what my parents have said and what he said, is that he is just really, like his mindset is so much better. And I know that it is because I know him very well. And I know that he has gotten over the silly like juvenile things that every high school kid thinks. And if I were to go there it would be like it was before all this happened because we were really a happy family, and I think that it would change the dynamics and that, you know, it wouldn't -- because I felt like an only child for a long time because my brother is gone and my sister is gone and

I am just there with my parents. And I think that if we were all together again it would balance itself out again. And I think that, you know, we would be able to accept the situation beter and, you know, be able to say, okay, this happened but we can move on

and not just be so left -- and I feel really left in the dark about it.
Q Do you think that visits would help those feelings even if they were non-contact?
A Yes, because they were always non-contact before and they always held, I mean, just for a reasurrance, and, you know, to stay emotionally connected to him because you get detached after a while.
Q In your opinion, would visits from you help benefit Jon in any way? What do you think the effect would be for him?
A Well, I know that that would help him. I mean, I know he misses me and I know that. I mean, for any brother, their little sister is a soft spot in them. I mean, it's no matter how tough someone becomes, their little sister is someone that they care about and someone that they are going to protect. And that, you know, those are the things about them that make them a human being and that make them a regular person. And I think that if I were to see Jon again

it would be like, you know, it would be like a softening thing and like humanizing thing.
Q Are you aware that your dad ever wrote to the warden to ask --
A Yes.
Q What is your knowledge about that?
A He wanted to request special permission or

something for me to see Jon because he figured, you know, that my parents really want me to see him and I wanted to see him and we're not like, it's not like I would be in any danger or anything. And I'm like sixteen years old. It's not like I'm incapable of making decisions or something. And so they wanted to request special permission because things were just getting, you know, to the point that I was just like completely detached from Jon and to me it was like he died. It was just like he wasn't there anymore. And my parents really wanted me to see him again but it got denied because they said it was policy or whatever.
Q So, if you could visit, obviously, you're indicating you would. Would you be apprehensive about visiting?
A No. I mean, I have always felt safe at a jail surrounded by police officers and guards. So don't really know I would be scared about anything.

Q Do you and Jon write?
A Yes, we write sometimes, fairly often. I mean, it's hard to write someone because you ask them all these questions and you don't get a letter for like another week and it's like trying to like, you forget even what you wrote and it's just kind of, our communication tends to be pretty superficial.
Q And what about phone conversations?
A Well, it's always like crazy when he calls because, you know, there is like all this weird phone stuff.

We have had so many -- there was this one time one of the prisons he was at, if you hung up the phone it would disconnect the conversation. That was crazy. We had all these phones off the hook everywhere. I mean, it's just we like, quick, and you know you're going to get cut off and get interrupted and everybody wants to talk. And so, I mean, the phone conversations are hi, how are you? Are you doing okay? You know, they are not anything like a conversation because you only get fourteen minutes, so --

Q When is Jon scheduled to come home?

A January of 2002.

Q And by then how many years will it have been since you have seen him?

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A Three and a half.

Q Thank you, Kate.

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DIRECT EXAMINATION

BY MS. LEVINE:

Q Could you state your name for the record, please?

A Robert Shier.

Q And Mr. Shier, where do you live?

THE COURT: Would you spell the last name for me?

THE WITNESS: S-h-i-e-r.

Q (Continuing, by Ms. Levine): What city do you live in?

A In Milan.

Q Where do you work?

A Ford Motor Company Michigan Truck Plant.

Q How many years have you worked for Ford?

A Twenty-three.

Q What is your job?

A Synchronist material flow coordinator.

Q Do you have children?

A Yes, I do. I got four.

Q Could you tell us their names and their ages?

A Theresa is twenty-six. Robert, Jr. is twenty-four. Melissa is nineteen and Bradley is sixteen.

Q Does Melissa have a nickname?

A Missy.

Q Did one of your children serve time in the .....

Michigan

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prison?

A Yes, Robert, Jr. did.

Q And what did you call Robert, Jr.?

A Bobby.

Q Bobby. And when was he sentenced?

A In, I believe, February of '94.

Q And has he been released?

A Oh, yes, in, I believe, July of '97 we won in the

appeals court and they released him.
Q I'm sorry. You said July of '97?
A I believe so. That was it.
Q And so how old were each of the children then when
Bobby was sentenced?
A Missy was thirteen, twelve, and Bradley was nine.
Q And Bobby himself was --
A He was seventeen.
Q He was seventeen. Was Bobby in a county jail at any
time before he went to prison?
A Yes, after, when they, the day they found him guilty
they took him in custody and he remained in the jail,
I want to say about five or six months because we were trying to get a retrial and so on and so forth and they had some things that happened in the trial. I can't remember. But he was a hold over. But he was in the jail five or six months before he went on.

Q If which county was that?
A In Washtenaw County Jail.
Q And did you visit him there?
A Yes, I did, every chance I got.
Q And did your children, did the other kids visit him?
A Yes, when they could. Whenever they could on the weekends because --
Q And how were the visits conducted?
A Through just going in, glass, telephone.
Q So, would you call that a non-contact visit?
A Non-contact, yes.
Q Were the children able to communicate with each other
that way?
A Yes, they could see each other. They could see he was all right. They would talk on the telephone and

so on. Plus fifteen minutes later he would call home. We would talk on the phone when we got home.
Q When Bobby was transferred to the Department of Corrections, to what facility did he go first?
A First he went to -- it was the reception center up there in Ionia. And he was, I think they say he has to be, what do they call that, in quarantine for thirty days or something before we could go visit him
and then we could go. They were waiting to move him
to the place were going to send him to.

Q So, I want to make sure I understand what you are saying. You were not able to visit him the first thirty days?
A The first thirty days when he goes up there he's in quarantine so they can do whatever. But then in this
holding time we were able to go visit him at the reception center.
Q Do you know what prison the reception center is located at?
A All I know is if you're familiar with Ionia, is you go down the big hill and make that first left. That's all I know.
Q Was it a very old looking facility?
A Yes, and a lot of wire. That was the first thing I noticed was a lot of wire.
Q Could it be the Michigan Reformatory?
A Yes, it could.
Q Was that a contact or non-contact visit?
A That was contact because that was the first time I could hug him after seeing him six months.
Q Who visited that time?
A My mother, my ex-wife and Missy, and I believe my sister went up. I think there was about five or six

of us.
Q And Missy at that time would have been about how old?

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A Then she was, that was in '94, so it had to have been thirteen, thirteen or fourteen.
Q And how many times did you visit him at the reception center?
A Just a couple times and then they moved him to the new facility.
Q And what facility was he moved to?
A That was IMAX Facility but he was a level two to perform work detail there. He wasn't a maximum security prisoner. He was a level two.
Q Are you suggesting there is more than one level prisoner at IMAX?
A There is all the way to the max. That's why they call it IMAX because they have them incarcerated and they need the level two which perform like the yard duties and maintenance and so and and so forth.
Q So, Bobby's security classification was --
A Level two.
Q Level two. And were your visits with him at IMAX contact visits?
A Yes, all of them were.
Q And, again, when did he arrive at IMAX, approximately?
A I want to say in March, maybe '95, '93, '94, maybe. No, it had to be like September of '94 because it was

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from the time they sentenced him until he went to IMAX, it was six months.
Q And were your other children permitted to visit him

there?
A Oh, yeah, yeah.
Q Did you visit yourself?
A I visited him every Friday.
Q Every Friday. Were there any exceptions to that?
A Football season because I referee and wasn't able to make it on Friday nights.
Q Would you go another day?
A Yeah. You're only allowed two weekend visits a month. I could only go every other weekend.
Q How long was the trip for you?
A It was a hundred twenty miles one way.
Q And did the kids, in fact, go with you some of the time?
A Oh, yes, whenever they could. I usually went on Fridays which was a school day so they couldn't go that often. But on Fridays they could. They would take off and go with me. I would take them with me.
Q And would they go on weekends occasionally?
A Yes, when I went on the weekends they always tried to go up on the weekend.
Q Could you describe the visiting room at IMAX?

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A Yeah. A little pie shaped area, vending machines and toy boxes and stuff for the kids and these little high tables where you set your chains and whatever on and four chairs, extra chairs if you had more visitors. All glass along the side where you see people coming and going. And it was all open.
Q And were you aware of security measures while you were there visiting?
A We had a guard in there. I'm sorry. We always had a guard in there.
Q And what about security measures coming in the

facility?
A Yes, you got locked in, took your shoes, socks off and they checked you for everything coming in, your pockets and everything and frisked.
Q Did you go through a metal detector?
A Yes, the metal detector too.
Q Were there -- did you see other young children there in the visiting room when you are there visiting?
A Oh, yeah, well, always when I first started visiting there was always a bunch of children. But then later on there was just, you know, after they changed the rules, then just the children of the personnel that were there. Just siblings, I guess, weren't allowed, brothers and sisters.

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Q Before the rules changed, you say you did see younger children?
A Oh, yeah, all the time.
Q Did you -- how were they by behaving, generally?
A Well, a lot of them would sit over by the toys and play or bring toys back to the table and they would sit and play and maybe a little kid with another little kid would play together, and you know how little kids are. The older kids would sit at the table. Like mine would just sit at the table and have conversation.
Q Did you ever get the feeling that there were a lot of children out of control in the room?
A No, no.
Q Did you ever see a child get hurt in the room accidentally?
A No.
Q Did you ever see anything happen in the visiting room at IMAX before the rules changed that concerned

you in any way?
A Nothing.
Q Did you ever see adult visitors engage in behavior that you didn't want your children to see?
A Uh-uh.
THE COURT: You have to answer yes or no.

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A No, I'm sorry, no.
Q (Continuing, by Ms. Levine): Were your kids ever apprehensive about going? Did they ever seem reluctant to visit?
A No, they always looked forward to the ride up so they could see him.
Q You mentioned that there came a time when the rules changed?
A Yes.
Q How did you find out that the rules had changed?
A On a Friday there was no school so I took my daughter and we drove the hundred twenty miles up. And they informed me that siblings, brothers and sisters were no longer allowed to visit. And, you know, I disputed it, wanted to talk to somebody. And they gave me a shift leader but that wasn't -- and I said, can I leave her out here for a few minutes to tell him what I'm doing and we're going to leave? And they wouldn't allow that. So I had to turn around and drive one hundred twenty miles back.
Q Why wouldn't they allow you to see Bobby?
A At that point then, well, I believe it's then and now and always has been, under the age of eighteen weren't allowed to be in the visitor's room unless accompanied by adult or guardian.

Q In the visitor's or waiting room?
A In the waiting room. That's what they told me. She couldn't sit out there. The guard sits there. I asked her if she'd watch, but she couldn't do that. It was against the rules.
Q Had you been there the previous week?
A I was there every Friday.
Q And were you given any notice --
A None.
Q -- that the rules were going change?
A Bobby didn't even know it was going to happen.
Q Were there signs posted anywhere?
A She gave me a sheet that day when I showed up. I said, how come this isn't posted? She didn't have an explanation.
Q How did Missy react that day?
A She cried all the way home.
Q How did Bobby feel about not being able to see his brother and sister?
A He was pretty upset about it, but mainly he was wanted to know -- he thought something happened. But I guess, you know, eventually somebody told him that we had been there because he was planning on a visit.
Q What about over time, beyond the shock of that first day suddenly being told that you couldn't visit, how

did Missy react about not being able to --
A Well, every Thursday night she would ask me, dad, are you going to see Bobby? She cried and would say, that's not fair.

Q Did the kids write to each other?
A On occasions, yes.
Q Did they talk on the phone?
A Everyday because he would call everyday collect from the prison and if I wasn't home, she would accept, take responsibility and talk to him anyway.
Q Did you take responsibility for the phone bill as well?
A Yes. It never got shut off for the two years he was in there.
Q You are saying the phone never got shut off?
A Yeah, never did.
Q Were the calls enough to keep up the relationship, you think, the way it used to be?
A It was good but there was on two occasions that he came back to Wayne County --
Q Wayne County?
A I'm sorry. Washtenaw County Jail and she would get real excited. I would have to take her to see him. But just going and seeing him through the glass at Washtenaw was a whole lot better than her just

talking on the phone. She could actually see him and know he was all right, where going up there, not being able to go up there, she couldn't tell.
Q You're saying that there were occasions after he was at IMAX that he then was transported back to the Washtenaw County Jail?
A Yes, I believe two. It was when he first was going to do his appeal things, they brought him back for a couple weeks and we were able to get in the Washtenaw Jail visit routine and she would want to go. And then before he got out on appeals, he was in

Washtenaw County Jail for two weeks and she was able to see him again.
Q So she was not able to see him at the prison but during the same time she was able to visit him when he was brought back to the county?
A Yes.
Q Now, with Missy and perhaps even more so with Brad, were you concerned that taking the children to a prison would somehow legitimize prison, make it seem like an okay place to go?
A No. I would take them so they know it wouldn't be an okay place to be but still able to visit their brother and see that he was all right.
Q So, would Bobby tell them what being in prison was

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like?
A We just talked about a lot of things. We didn't -- he didn't discuss what it was like there. Most prisoners don't talk about what it's like in there.
Q There has been testimony that the Department of Corrections changed the rules in part because they felt that the prisons aren't a day care center and they are not appropriate places for children to be. As a parent, how do you feel about that rationale for preventing children from visiting?
A Well, that should be up to the parent. I think if I want to take my child up there and be part of the rehabilitation, so to speak, that they want these prisoners to go through, I would say, you know, let them continue their relationship with brothers and sisters and children or whatever. I see no reason why they shouldn't be able to visit. I mean,

especially they're going with a parent or guardian. I never seen anything that would make me think they were in danger and I wouldn't allow anything to get them in danger. I mean, they were my responsibility and I think they should be able to go. Just my personal opinion.
Q Yes. But you're talking about your taking your children to see your other child?

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A Right.
Q If they had allowed your children to visit only on a non-contact basis, would you have taken them?
A Yeah, yeah. Even at the jail, just the fact of looking through that glass and seeing him, they were thrilled. They knew he was all right.
Q Do you think that younger children feel anxiety about whether a missing sibling, a sibling in prison is doing all right?
A Yes, I because if they're like me, they probably watch TV and see the stuff. I was guilty of that myself, asking my son things. He said, dad, you watch too much TV. So I am sure kids do.
Q Okay. Thank you, very much.

(2:17 p.m.)

DIRECT EXAMINATION
BY MS. STREETER:

Q Would you state your name again for the record, please.
A Brenda Lee Clark.
Q Are you currently incarcerated by the Department of Corrections?
A Yes, I am.
Q And what facility are you in right now?
A Scotts Correctional Facility.
Q How long have you been at that facility?
A Since May.
Q What is the length of your current sentence?
A Eight to 15.
Q And when were you incarcerated on that?
A 1992.
Q Would you describe who your family members are, please.
A My family members, would you like their names?
Q Just the relationship.
A Okay. I have two children, I have one sister and two brothers.
Q And how old are your children now?
A 6 and 15.

Q And do your brothers and sister have children?
A My sister does.
Q Are they under the age of 18?
A Yes, they are.

Q Where do your children live?
A In Florida.
Q And with whom do they live?
A My parents.
Q Are you currently on a permanent visitor restriction?
A Yes, I am.
Q And is that the result of a substance abuse ticket and a -- two substance abuse tickets?
A Yes, it is.
Q And the second substance abuse ticket, was that for refusal to provide a sample for testing?
A Yes, it was.
Q In connection with that ticket, I wanted to ask if you currently have a medical condition.
A Yes, I do.
Q And what is that condition?
A Crohn's disease.
Q And do you take medication for that condition?
A Yes. I've been prescribed 10 different medications.
Q When was your -- when was the ticket for refusing to provide a sample?

A May of 2000.
Q At the time were you on the 10 medications for Crohn's?
A Yes.
Q And in your contacts with medical staff, have you been

advised of the side effects of the medication you are taking?

A Yes, I have.

Q Is one of the side effects of the medication an inability to urinate?

A Yes, it is.

Q And you had a hearing on that ticket, did you not?

A Yes, I did.

Q And did you raise that issue with the hearing officer?

A Yes, I did.

Q And after raising that issue, were you still found guilty of your ticket?

A Yes.

Q How did you find out that you were on a permanent visitation restriction?

A My family had called Michigan from Florida to make reservations and to find out the visiting schedule at the Scotts facility, and at this time they was informed that I had been placed on a permanent visiting restriction.

Q And did you subsequently get something in writing from

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the Department of Corrections?

A After this, I did.

Q To the best of your recollection, what were you advised by the department?

A From the Department of Corrections?

Q Yes.

A I was advised that as of August 7th, I had been placed on a permanent visiting restriction. There was no deadline as to when the restriction would be ceased, or what I have to do in order to get this restriction off of me.

Q And have you subsequently gotten more information about the possibility of having a restriction removed?

A No, I'm still unclear as to what type -- what is expected of me to get this restriction off me.

Q As a result of being placed on this restriction, how has it affected your relationship with your children?

A Oh, it's very hard, both my children and myself. My baby carries my picture around with her, and she told me last week on the telephone that she was coming to Michigan to show me her new glasses, so it's been very difficult on my children -- excuse me -- and myself, because they, my oldest one does somewhat understand, but my baby doesn't.

Q And prior to the time of your restrictions, how often did your parents drive up from Florida so you could visit with your children?

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A At least every three to four months.

Q And are you able to talk to your children by phone?
A Yes, that's our -- that's mine and the baby's only contact, because she can't write yet, but that's – the telephone is really all we have and that's not a whole lot.
Not when they need to see their mother as much as I need to see them.
Q Now, after you received this, the information that you'd gotten the permanent ban, did you request a -- did you appeal that decision in any way?
A My -- no, I haven't.
Q And why is that?
A Because I knew I was coming to court.
THE COURT: Because what?
THE WITNESS: Because I knew that I'd be coming to court.
BY MS. STREETER:
Q You mean in this case?
A Yes.
Q And as far as you know, is there some other appeal process available to you other than coming to court? I mean, within the Department of Corrections.
A No. As far as my permanent visiting restriction?
Q Yes.
A Not that I'm aware of, no.

(Witness excused.)
(Lunch and recess taken 1:10 until 2:10 p.m.)

D A V I D B R E W E R,
hereinbefore called as a witness, being first duly sworn by the Court to tell the truth, the whole truth, and nothing but the truth, was examined and testified upon his oath as follows:
(2:10 p.m.)
DIRECT EXAMINATION
BY MS. STREETER:
Q State your name for the record, please.
A David Allen Brewer.
Q And how old are you now?
A 32.
Q Where do you currently live?
A Southgate.
Q Prior to living in Southgate at your current address, were you in the custody of the Michigan Department of Corrections?
A Yes, I was.
Q What's the last institution you were incarcerated in?
A HTF.
Q And what does that stand for?
A Hiawatha Temporary Facility.

Q What was your term of sentence?
A Two-and-a-half to 15 years.

Q And when did you begin your sentence?
A August of 1992.
Q And what length of sentence did you end up serving?
A Eight years and two months.
Q So when you went into prison in 1992, how old were you at that time?
A 24.
Q When you went into prison, did you have any children?
A One and one on the way.
Q While you were in the custody of the Department of Corrections, were you placed on a permanent visitation restriction?
A Yes, I was.
Q I'd like to call your attention to what's been introduced as Plaintiff's Exhibit 40 at Pages 552 through 560 and ask if you've seen these documents before?
A Yes, I have.
Q Do they relate to your permanent visitation restriction?
A Yes.
Q What was the basis for your permanent visitation restriction?
A Two substance abuse tickets.

Q The two substance abuse tickets that were used as the basis to have your visitation restriction were on which

dates?
A January and March of 1996.
Q And is it the case that the request that was made for the restriction from your institution, was that based on more than two substance abuse tickets?
A Not that I'm aware of.
Q If you could look at Page 553 or 554. When the request was made for the restriction, do you know what your institution was calling to the attention of the Department of Corrections, central office?
A It was three.
Q And so you've mentioned two. What was the third one?
A In October of 1995, I received a possession of marijuana.
Q Did that incident in October of 1995, did that relate in any way to your second ticket in January of '96?
A Yes, it did.
Q Would you explain how that is, please?
A When I received the misconduct for possession, they subsequently made me submit a urine. I submitted the urine and it takes awhile for the test results to come back, and then I was also subsequently reclassed to a higher facility which caused the hearing to take place some months later.

That's why there's a date of three months apart.
Q So in January of 1996, were you at the same institution as you were when the conduct occurred in October of 1995?
A No, ma'am.
Q Where were you?
A I was in a higher security level, Jackson Correctional Facility. The incident took place in camp.
Q At the time of your conduct in October of 1995 in that first of the three substance abuse tickets, were you aware that a second such ticket would result in a permanent visitation restriction?
A No, ma'am.
Q Did you later become aware of this policy?
A Yes.
Q And explain how that came about.
A When I was found guilty of the second misconduct, I was given a 30-day income status, and on the form, it made me aware that two or more substance abuse tickets could result in a permanent denial of your visiting privileges.
Q Now, the noncontact visitation restriction is not a part of the documents before you, is it?
A No, ma'am.
Q The best you can recall, how soon after your first or second ticket did the noncontact restriction take

place?

A The institution implements it within a matter of days.
Q So by the end of October would you have begun serving your first noncontact visit restriction?
A That first misconduct I didn't because I was transferred, and it never caught up to me. The January misconduct had started pretty much instantaneously, within days.
Q Do you recall how much time between your last substance abuse ticket and the actual request for the restriction?
A It was close to three years.
Q And do you have any knowledge as to what prompted the request for the restriction?
A In the Jackson Correctional Facility, which is known as Cotton, they do a review of your file if you have any changes made to visitor lists or applications sent in. I requested to have my visitor list changed. They reviewed my file and submitted a request.
Q Did someone in the Department of Corrections advise you that this in fact was what prompted the request?
A Yes, my Resident Unit Manager.

Q When you received the permanent visitation restriction, do you attempt to appeal that restriction?
A Yes, I did.
Q What did you do?

A I filed a grievance directly to the director's office and also sent a request for appeal to Denise Quarles' office.
Q And at that time what position was she in?
A Regional administrator, I believe.
Q And did you get a response to either request?
A The grievance was denied stating that it's nongrievable issue because it concerns all prisoners, and there was no response from Denise Quarles' office.
Q In addition to the permanent visitation restriction, were you also given sanctions from the hearing officer?
And let's talk about the last two tickets.
A Yes, I received seven days' top lock on both.
Q In addition to the hearing officer sanctions, were other actions taken regarding what they call good time?
A Yes. I lost a mandatory seven days on each misconduct, and the institution forfeited all of my remaining days.
Q In your situation, what was the practical effect of that?
A Me personally, it didn't affect me because I was already so many years past my first out date that the good time only came off my max and my max is 2016

and I had no desires of being incarcerated still at that time so --
Q In addition to the loss of good time and the seven

days' top lock, did the institution change your classification with respect to jobs you could hold within the prison?
A Yes, they put me on unemployable status for 90 days and removed me from my food service position.
Q I think you touched on this earlier. As a result of your tickets, did your classification increase?
A Yes, I was raised one security level. They said I was a threat to the security of camp.
Q And you went from the camp to what?
A To a secure Level 2.
Q Did you appeal the tickets themselves?
A No, ma'am.
Q And why is that?
A Because I was guilty.
Q Now, prior to the imposition of the permanent visitation restriction, were you provided any kind of separate hearing?
A No.
Q Were you advised of any kind of appeal process for the restriction itself?
A None, no.
Q Now, you mentioned at the time you went to prison you had one son and a child on the way; is that correct?

25 A Yes, ma'am.

1 Q During your time of incarceration, without giving
2 names, who visited you?
3 A My sons, their mothers, their grandmothers would also
4 bring them, and my parents.
5 Q And do I understand correctly that you have a son by
6 different women?
7 A Yes, ma'am.
8 Q Up until 1995 -- strike that. Up until your
9 visitation restrictions of when you got your -- be your
10 first ticket in October of '96; is that correct?
11 A '95.
12 Q '95. Were you able to see both of your sons?
13 A Yes.
14 Q With their mothers?
15 A Yes.
16 Q Were you also able to see one of your son's half
17 sisters?
18 A Yeah, that would be Megan.
19 Q And how old would she be at the time she was visiting
20 you last?
21 A In 1995, she would be four. She's a year older than
22 David, Jr.
23 Q And did you have some relation with her before you
24 went to prison?
25 A Yes, I was taking care of her. Me and her mother were

1 together, and I was essentially the father figure.
2 Q Which son was her brother?
3 A David, Jr.
4 Q And as a result of the noncontact restrictions, were
5 you able to continue seeing your family in the noncontact
6 situation?
7 A Yes, but I only chose to see the adults.
8 Q And why is that?
9 A I didn't think that it would be suitable for my
10 children to come up in a three-by-three room and have to
11 talk to me through a phone and a piece of glass, not at
12 their age.
13 Q Were you on some form of visitation restriction from
14 October '96, continually?
15 A No.
16 Q Was there a time between the noncontact restrictions
17 and your permanent visitation restriction where you had
18 full visits?
19 A Yes, ma'am.
20 Q And how long was that, what period of time?
21 A My last noncontact status of 30 days began in March of
22 1996 when I caught the third and final misconduct. It was
23 over with in April. From April of 1996 until February of
24 1999, I had full contact.
25 Q Did the -- let's talk about the permanent visitation

restriction. Did you stay on that restriction until your release from prison?

A Yes, ma'am.

Q And did the permanent visitation restriction affect your relationship with your family?

A Yes.

Q Would you explain, first of all, with respect to your parents how it affected your family?

A Well, my mother is ill and it's hard not to be able to see her and hold her and communicate with her. All you have is a telephone if you don't have visits, and the phone calls are supposed to be 15 minutes and they're not, and you've got numerous recordings jumping in and it's just a hard way to go.

I was transferred from up north downstate so I could be close enough for visits. I was transferred on a hardship transfer so I could see my mother, and then they took it from me.

Q Mr. Brewer, how do you know -- how do you personally know when you are sad?

A By feeling upset, I shut down, lose sleep, I feel a wantness(sic) to be able to reach out and I can't because they're not there.

Q How do you feel when you were angry?

A Irritated, I tend to just like want to be left alone.

I don't fear my temper or anything. It's just, when I'm angry, I don't want to communicate.

Q When you first began serving your sentence, did you feel any of those symptoms that you described for being sad or angry?

A Yeah. I was -- well, of course, angry for myself for putting myself in that situation, but it was emotionally hard, you know, sad being taken away from your family and not being able to go through the things in their lives as well as mine together.

Q Were you able to talk about those feelings with anyone when you were in prison?

A Just my family on visits.

Q Why were you not able to discuss them with other prisoners or guards?

A Well, you don't have relations with guards, and that's like a rule amongst prisoners, and then it's really not a good thing to do getting personal with other prisoners because if you try to open up and talk to somebody, they'll look at it wrong and, you know, think you're

being
emotional or signs of weakness, you might say, and they'll
prey on you, so you just shut down and let it all bottle up
until you just can't anymore.
Q When you received the permanent visitation restriction, did you experience the feelings you described

as when you were sad?
A Oh, immensely.
Q And were you able to talk to anyone about those feelings?
A Not really, no.
Q Did you feel any of those -- did you experience the feelings you described when you testified that you feel when you're angry?
A To some degree, yes, against the administration.
Q So when you came home, what was it like to see your family again?
A Words can't explain it. It's remarkable. I hated the fact that my kids had grown almost two years and I hadn't seen any of it. It was like starting all over again with them, but just being there, that was enough for me.
Q Now, do you have an agreement with the mothers of your sons about custody?

A Yes, I have joint custody of both my children. I'll soon be having physical custody of one of them.
Q Did the permanent visitation restriction affect your ability to prepare for your parole hearing?
A Oh, yes, definitely.
Q And how did it affect your preparation?
A I wasn't able to maintain the proper level of communication with my family, you know, the way the phones

are set up, and there's only so much you can do through the mail and through short cropped phone calls, especially with what they charge you.
Q You mentioned earlier about your son's half sister, Megan. Did there come a time when she could no longer visit you?
A In August of 1995, when they started out the new visiting policy where you had to fill out applications, no children under 18 could visit you unless they were legally your child or you're married to the mother and she's your stepchild.
Q Did that have an affect on your relationship with your family?
A Oh, yes, immensely. I lost all contact with her except through the mail, and at that young of an age, it was as if I never existed when I came home. She

knew who I
was and of me, but there was no physical relationship
anymore.
Q We talked a little bit about some of the punishments
you received for the underlying tickets. Did those
tickets, the three tickets we've talked about earlier, did
they have an effect on your parole review process?
A Yes.
Q And what was that?
A Every year, I'd go to see the parole board and I was

given 12-month passovers for substance abuse history.
Q How often did that occur?
A I did six years in passovers.
Q Because of those three tickets?
A Actually, I did four years in passovers. I did a 24-month continuance and then subsequently followed it with
two 12-month continuances.
Q Would you describe just briefly what you have done
since -- excuse me. How long have you been home?
A Since August 6th of this year.
Q And what have you done to address your relationship
with your family since being home after having had
permanent visitation restrictions?

A Well, while I was away, me and my mother would talk
through letters and on the phone, and we arranged it to
where my children's mothers would bring my kids over to my
grand -- my mother's, their grandparents', on a very
regular basis, and they were instilled as to this is
daddy's room. They see their pictures on the wall next to
mine and so forth.
When I'd come home, I planned on going to my
parents' home. So when I reintegrate myself into their
lives, it was in a place where they'd be familiar with,
rather than me crash into their house, you know, and it
would be all like a shock.

So when I came home, with my parents' support, I
started with, they'd come over and spend a half hour to an
hour. We'd walk up to like the Dairy Queen, and then a
couple days later, they'd come over and spend two, three,
four hours, and then it got to all-day sessions, and then
we had our little weekend slumber parties. I'm taking baby
steps so I don't crowd them, you might say. It's going
pretty well, thanks to my parents.

Q Do you think that the process you just described would be any different had you had visitation with your sons the last year-and-a-half, two years?
A Yeah, because I don't think it would be so emotionally hard on me, you know, having to subject myself to setting up like a time schedule to slowly get back into their lives, thinking about their psychological well being, you know. I should have been able to come home and take on my role as the dad and be that full time from the get-go, instead of slowly working back into it. You know, I'm a free man now, and I'm still losing time with my kids, but I feel that it's the only thing that I can do to do it right.
Q And are you currently working?
A Yes, ma'am.
Q What kind of work are you doing?
A I work for a company called Service All. I run a

propane burner in different department stores on a midnight shift, putting the gloss back on the floors.
MS. STREETER: I have no further questions.
THE COURT: Mr. Thom.

(2:30 p.m.)
CROSS EXAMINATION
BY MR. THOM:
Q Sir, on Pages 559 and 560 of Plaintiff's Exhibit 40, if you would turn to those pages, the substance abuse misconduct ticket you got, Exhibit 40, Page 560 was on September 17, 1995, possession of marijuana; correct?
A Yes, sir.
Q And you were found guilty of that ticket on October 2, according to the hearing report, on Page 559 of the same exhibit; right?
A Yes, sir.
Q That was the first substance abuse ticket that related to the permanent visiting restriction; correct?
A Yes.
Q All right. Now, on Page 558 of the same exhibit, Exhibit 40, your second ticket violation date is November 11, 1995; correct?
A Yes.
Q And that was for a urine test, a urine drop that you provided on November 11; correct?

A Yes.
Q So between the time that you were cited for possession of marijuana on September 17 and when you provided the urine drop, there was almost two months?

A Approximately.
Q Then you've got a third substance abuse ticket violation date was March 3, 1996, again for another dirty urine drop; correct?
A Yes, sir.
MR. THOM: That's all I have.
MS. STREETER: Just two questions, Your Honor.
(2:33 p.m.)
REDIRECT EXAMINATION
BY MS. STREETER:
Q Did you have a substance abuse problem before you went to prison?
A No, ma'am.
Q Did you receive any treatment for substance abuse while you were in prison?
A Just a drug education class that teaches you the effects of drugs on your body.
MS. STREETER: I have nothing further of this witness.
THE COURT: You may step down.
(Witness excused 2:33 p.m.)

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CROSS EXAMINATION
BY MS. LABELLE:
Q. Could you state your name for the record?
A. Marjorie VanOchten.

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Q. When did you start working with the Department of Corrections?
A. 1978.

9/8/00 Trial Transcript Marjorie VanOchten Page 29

Q. Have you continued during your time with the Michigan Department of Corrections--are you with the Michigan Department of Corrections currently?
A. No, I retired from the department in January of this year.

9/8/00 Trial Transcript Marjorie VanOchten Page 42

Prior to the rules being enacted, the administrative rules, was there any requirement that public hearings be conducted on the rules?
A. Yes. That's part of the statutory requirement under the -- statutory requirement under the state's Administrative Procedures Act that public hearings be held whenever administrative rules are being promulgated.
Q. And were public hearings scheduled specifically for the rules on changes in 1995 on prisoner visitation?
A. Yes, they were.

9/8/00 Trial Transcript Marjorie VanOchten Page 43

Q. Do you recall testifying in your deposition that these public hearings were the most emotional and most public attention of any public hearings you've ever done on those?
A. Yes. don't know for each one.

9/8/00 Trial Transcript Marjorie VanOchten Page 99

Q. Why were visits chosen?
A. Because they're very important to prisoners.
Q. So it was discussed to try to get the most important thing?
A. I don't know that it was specifically discussed. It's sort of common knowledge in corrections that there's two very important things to prisoners, food and visits. It's just, I've heard it for years working for the department, and so --
Q. So you couldn't take the food?
A. That was not discussed, but you're correct, you couldn't, but it was not -- visits were very important to prisoners. It's just common knowledge, and so not being

9/8/00 Trial Transcript Marjorie VanOchten Page 100

allowed to visit would be a significant deprivation.

9/11/00 Trial Transcript Dan Bolden Page 17

BY MS. STREETER:
Q Would you state your name for the record please.
A. Yes. My name is Dan L. Bolden, B-O-L-D-E-N.

9/11/00 Trial Transcript Dan Bolden Page 18

Q. Now, you have been the deputy director of the correctional facilities for the department since about 1984; is that correct?
A. Yes, that's correct.

9/11/00 Trial Transcript Dan Bolden Page 32

Q. Now, you've testified previously that the primary objective of the Department of Corrections as it relates to inmates is the protection of the public. Is that correct?
A. That's correct.
Q. Another important aspect of what the Department of Corrections tries to do is providing rehabilitation; correct?
A. That's correct.

9/11/00 Trial Transcript Dan Bolden Page 139

Q. Could you explain what the penological purpose is of having a prisoner who has a second substance abuse misconduct, then perhaps has no tickets for three years, then being punished for a ticket three years earlier? What is the purpose of that?

* * *

A. I would have liked for it to have been imposed sooner,

but I don't know that policy -- the policy requires that it be imposed immediately, although it should be. Any punishment ought to be dealt with as soon as possible. But the thing I looked at is the three substance abuses were within that window period of time that we had outlined, but there is no limitation as far as I know of

9/11/00 Trial Transcript Dan Bolden Page 140

submitting a request to the director after the fact.
Q. But what is the penological purpose?
A. The penological purpose is this individual, this individual violated our substance abuse policy.
THE COURT: That doesn't really, to my mind, answer the question she's asking. I'd like to know, too, what -- we understand that he's violated the substance abuse policy. What purpose is intended to be furthered by punishing him, given that three and-a-half years has elapsed, presumably through no fault of his own? So what is --
THE WITNESS: I think the, I think the -- what I was trying to explain a moment ago, Your Honor, was this individual just may have continued to use narcotics and never got hit on a random, or never was asked to wear a sweat patch, and I think one of the things, the message

that both Director McGinnis and I were trying to say, that there is a penalty for using narcotics, and whether or not it was a good rationale to do it three years after the fact, I don't know. I did make the recommendation and the director acted on it, and there may not have been necessarily a good rational penological reason in some people's mind. In my mind, it was.
BY MS. STREETER:
Q. Now, this prisoner apparently was found guilty of two

9/11/00 Trial Transcript Dan Bolden Page 141

substance abuse misconducts. He was punished in some fashion by virtue of the tickets themselves, was he not?
A. That's correct.
Q. And in addition to receiving some form of punishment because of the tickets themselves, prisoners are also subject to loss of their, what they call good time; isn't that correct?
A. That's correct.

BY MS. STREETER:
Q. You're aware that in addition to the sanctions imposed

9/11/00 Trial Transcript Dan Bolden Page 142

by the hearing officer that a prisoner will also receive loss of good time; correct?
A. That's correct.

Q. And, in addition, that could and often leads to increased security classification?
A. That's correct.
One thing unique about this individual, this individual died not too long ago, if I'm not mistaken, and
I think as a result of some complications with his heart
which, and other medical conditions that were directly attributed
to drug use, this Stroman(sp). He died.
Q. And he was still on permanent restriction at that time?
A. Yeah. But I think the autopsy report revealed that there was signficant other - -
Q. And so somehow does that justify the delay of three and-a-half years?
A. No, it doesn't. I'm just saying that this is a case where I think drug use continued to be a problem with him.
He just never got caught. Because I happen to know this
prisoner.

BY MS. STREETER:
Q. Now, in addition to delays that occur between the last
ticket and the imposition of the sanction, does it not also
happen that prisoners, some prisoners have received the
permanent restriction despite the lapse of up to three years between their first and second misconducts?
A. I would hope that doesn't happen.
Q. Well, let's look at Page 125 and 126. This is the case of Mr. Paul Weaver, Number 146159. Mr. Bolden, in

this situation, I'm looking at the regional administrator's
memo of October 25, 1999, and it shows a marijuana ticket
from September 24, 1996 and a substance abuse – some other
substance of almost three years later, September 20, 1999.
This is a request from last year; correct?
A. Yes. I was just looking to try to find my memo to the
director on this particular case, because I agree with you
on this one. This one shouldn't have been -- this one shouldn't have been processed.
I don't have a problem with a case being older,
but it should fall, the misconducts should fall within that
window period to penalize somebody.
Q. And that really reflects back to the criteria that

your office had developed before the policy directive was
enacted; correct?
A. Yeah.
Q. At one point, you were looking at imposing this restriction if the tickets fell within a one-year period; right?
A. Correct. This one, this one shouldn't have -- I would agree, this is a bad case.

Q. Now, in connection with these areas where, for example, the prisoners have a substance in their system for
awhile, similarly, do you find that there are situations

where two misconduct tickets could issue from the same or
a course of events within a short period of time?
A. I think it's possible.
Q. I'd like you to take a look at Page 324. This is the case of Napoleon Wells, 178707, Page 324. I'll give you a
minute to take a look at this, but this appears to be a prisoner who had two misconducts for possession of marijuana within 13 minutes; one for a packet thrown on the
ground, and one for a packet found when he was strip
searched when he got sent to segregation.
A. Yeah, I've had a chance to review it.
Q. Now, is this the case for two misconducts in the case

9/11/00 Trial Transcript Dan Bolden Page 149

of marijuana being issued --
A. It sure looks like it, yes.
Q. Does the timing of these two misconducts and the apparent relationship to each other cause you some concern
when you're imposing permanent restrictions?
A. Yeah, I think any time you're doing something that's unfair, you ought to be concerned about it. You got to
have some degree of humanity dealing with the group of
people we deal with, and if we're doing something that is
unfair, we shouldn't do it.

9/19/00 Trial Transcript Denise Quarles Page 6

MS. STREETER: For the record, we've marked it
as Plaintiff's Proposed 56A.
"Ms. Quarles: In 1995, when we changed our administrative rules of the Department of Corrections as related to visits, one of the things that happened was, inadvertently, it wasn't something that was planned, in listing the individuals who were under 18 years of age who had visited the prison, a sibling of a prisoner was not listed and, after that happened, I can only say I don't know how many letters were received, we received -- we certainly received a number of letters and complaints addressing concerns and so forth about the issue of, you know, this person is important to the prisoner, and even though this is just a sibling, it is still a very important relationship. And because of the letters of concern and so forth that we have received, since that time the department is seriously considering -- as a matter of fact has decided it will, when the change in administrative rule (unintelligible) change so that siblings of prisoners if they're under 18 can visit.

9/19/00 Trial Transcript Denise Quarles Page 7

Now, currently, if they're over 18,
they can visit already, but I'm talking about people under 18.
Q I know administrative rules
never have specifics made for bureaucracies, but is it in the works right now to change

the rule?
A No, the department made a decision that when the rule was changed, because it was such a cumbersome process and such a lengthy process, that it would not change the administrative rule just for that one specific issue. However, I think it was last year, the year before, there was -- I think it was last year there was legislation introduced in the House of Representatives and the bill would allow siblings under 18 years of age to visit the prisoners. It never went anywhere in the senate, so it was not passed.
Q So the department does not oppose it?
A Yeah, we don't oppose it. As a matter of fact, we spoke on the house floor in favor of it, so --

9/8/00 Trial Transcript Diane Spencer Page 132

Q -Will you state your name for the record?
A Diane Spencer.
Q Are you incarcerated by the State of Michigan?
A Yes, I am.
Q And where are you now?
A Scott Correctional Facility, Plymouth, Michigan.

9/8/00 Trial Transcript Diane Spencer Page 133

Q How long have you been in prison?
A I have been incarcerated since December tenth of 1990.
Q At that time, who was in your immediate family? Who had you been living with?
A In the home that I lived was myself, my young son, my younger brother and my mother.
Q Did you say your mother and your brother?
A Yes.
Q What was the brother's name?
A Raymond Edward.
Q And in 1990, when you first went to prison, how old was Raymond?
A He would have just turned six at that time.
Q Would you describe the relationship between you and Raymond?
A Raymond and I had a very unique relationship because I was pretty grown by the time my mother had him and due to some circumstances in my life, I had left a marriage and moved back home with my mother

who was
divorced from Raymond's father. So I was there with
him all the time when my mother wasn't. It was kind
of like two moms and the kid. We had a unique
relationship.
Q Were you first in a county jail?

9/8/00 Trial Transcript Diane Spencer Page 134

A Yes.
Q Where was that?
A Allegan County Jail, Allegan, Michigan.
Q Now, did your mother and Raymond visit you there?
A Yes.
Q How often?
A When I was first incarcerated, the first couple months, very minimally, because there was a lot of
publicity and stuff with my case. And when things
kind of settled down a little bit, they came
regularly every Tuesday and Thursday for the jail
visiting time.
Q And what kind of visiting arrangement was it? Was it
a contact visit?
A Yes.
Q So you were able to sit with Raymond and your mother
and be together or was it through a glass?
A No. Up until the time of my conviction and being sent to prison there wasn't a glass there, but I have been back to court since that time and there now is.

Q And then when you were moved to Scott, or was it
Huron Valley Women's at the time?
A No, sir. I went directly to Scott's.
Q Okay. Now, at Scott, were you able to visit with Raymond?

9/8/00 Trial Transcript Diane Spencer Page 135

A Yes, after a period of intake.
Q Would you describe the visiting area at Scott?
A Well, when I originally got there, things were different than they now are. But I was also in a higher level security due to the length of my incarceration. And we had a very small visiting room
directly across from control center. We could go outside to an area that's -- they have like a couple swings and some picnic tables. There's vending machines in the visiting room so your fmaily can get
a drink or you or whatever. We were able to -- he could sit on by lap. Truthfully, depending on who was working in the control center, sometimes just next to me or directly across from me. And we could
go outside.
Q And how often were you able to see him?
A Once I went to prison it was quite a drive for my family so I didn't see him as much. Bimonthly, sometimes more depending on holidays, birthdays,
things like that.
Q Would he tend to come on holidays?
A Oh, yes. My mother always made sure I had visits for
holidays and birthdays.

24 Q In the visiting area that you just described, the
25 small area and the outdoor area, did you observe
any

1 problems with children in those areas?
2 A No. You mean children in general or children
3 involved with me?
4 Q The children around you, did you see things that
you
5 thought was --
6 A No, I mean, not that I would think was a problem.
7 Sometimes kids are kids and they might, you
know, run
8 over to the toy box.
9 Q There was a toy box they could use?
10 A Yes, it was a toy box and, you know, I mean, they
11 might run over and snatch somebody else's toy or
12 something like that, but nothing --
13 Q Was it peaceable though?
14 A Yes, it used to be real nice.
15 Q Did you feel it was uncomfortable having
Raymond
16 there because of adults, other adults meeting or
17 visiting?
18 A No, no.
19 Q Now, you said you then, at later point, you went
down
20 to a lower security level and the visitation set up
21 changed?
22 A Correct.
23 Q How so? What was it like then?
24 A In essence, it was the same except that it was a
25 larger visiting area. This is still prior to the

1 change in department policy. We were still able
to
2 go out in a little outside visiting area. It was
3 just more people. It was more crowded because
there
4 was a lot more lower level custody prisoners than
5 there were higher level at that time.
6 Q Did you ever have a visit terminated because
there
7 were too many people?
8 A From my visiting?
9 Q Yes.
10 A No, never.
11 Q And your mother would bring Raymond, is that
correct?
12 A Correct.
13 Q Through that period where Raymond and your
mother
14 were coming, how was your feeling about how
the
15 family was holding up, holding together?
16 A I thought together my mother and Raymond were
doing
17 wonderfully. They were quite a little pair. And I
18 felt very blessed that I was able to continue to be
a
19 part of that. Raymond understood where I was.
20 Q Do you think your visits were important to
Raymond?
21 A I know they were.
22 Q And how is that?
23 A You do I know that or how were they important?
24 Q Yes. How did you know that?
25 A Because he told me so.

Q Now, the rule changed then in 1995?
A Correct.
Q Were you able to see Raymond after that?
A No. No, I wasn't.
Q Could you see him in a non-contact? Could you see him at all?
A No. The only way I was able to see him after the change of the department rules was if I would be taken back to my original trial court to the county jail where they would facilitate us with visiting.
Q Did you visit him that way?
A I did one time.
Q And how was it?
A It was good because I hadn't been able to see him in quite a while and because of my placement within the system and things I was going through, I needed to see him. But by that point the county jail had erected a glass partition type thing so I couldn't touch him or anything. But I was glad to see him.
Q How long after -- what year was that in?
A That was in 1997.
Q In early summer of '95, you were still at that point able to see him? When did the rule change come in, do you recall?
A Early 1995. Due to my placement within the

department and my own personal conditions, I was not

barred from seeing Raymond because of department policy. I was barred because of my own personal situation.
Q When was that? If you don't want to --
A I was at Huron Valley Center, the psychiatric facility for Michigan Department of Corrections prisoners because of a -- because of an assault by a corrections officer on me, and at that time I was not doing well enough to see Raymond.
Q When did you leave the Huron Valley Center?
A I didn't leave the center until, take me just one minute here. Time is pretty relative anymore. I left the center in August of 1997. I had found out about that rule change while I was kind of in that transition thing between the facility, the U of M, the Huron Valley Center, where my mother had brought Raymond up for a visit and was denied access because he was a juvenile.
Q By then, in 1997, how old was Raymond?
A Well, depending on the part of the year, fourteen going on fifteen.
Q How was he doing during that period?
A During that period he was fine. He was still good.
Q Did he have some problems later?

A He did after my mother passed away.
Q When did your mother pass away?
A Christmas day of 1998.
Q Did he indicate at all that he missed you after that?
A Oh, yes.

Q How did he communicate with you?
A Writing to me, and when I was able to call.
Q Would you look, I think the book is in front of you, at plaintiff's exhibit thirty-five. Do you recognize those letters.
A Yes.
THE COURT: I'm sorry?
MR. BARNHART: Exhibit three five?
THE COURT: Thirty-five.
Q (Continuing, by Mr. Barnhart): Who is Beager? Is that his nickname for you?
A Yes.
Q And these are the letters he wrote you?
A Yes.
Q Who did Raymond go to live with?
A My mother's sister and her husband.
MR. BARNHART: Move the admission of plaintiff's thirty-five.
THE COURT: Received.
Q (Continuing, by Mr. Barnhart): How did Raymond do

when -- after he moved up with with his aunt and uncle?
A Well, he really wasn't doing very good. But it was no fault of theirs. He was having a really hard time in a lot of ways. He was hospitalized for depression. And shortly after that point we became aware that he was using drugs. I think he probably

confided a little bit more in me than my aunt and uncle. But he was just having lot of problems.
Q Did you at the prison try to get help to see if you could visit with Raymond?
A Directly after my mother died and for some time after that, and then I guess I just gave up.
Q Did you talk to counselors?
A Yes. Fortunately at that time I had little bit more access than most people in the system would because I was still under psychiatric care within the facility. I was if the RTP unit.
Q That is a mental health unit?
A Yes, residential treatment program. So I had, you know, a psychiatrist and psychologist and treatment team and things like that. And they make recommendations sometimes to the administration and special situations for placement or whatever. And I am aware that they did --

Q Who were these people? Do you know their names?
A Ms. Jeanie Ross at that time was the RTP unit supervisor but she was also my individual therapist. Doctor Jackson was a psychiatrist on staff. Ms. Nelson was the psychiatric nurse appointed to my case load. Shortly after that when I was an out-patient Mrs. Matney (ph) over took.
Q And what did they try to do?

A I know that there was some conversations, some memos. The treatment team was making a recommendation that if there was anything the warden could do that Raymond would be allowed to visit me. And they felt it would be in my best interests and his best interests.
Q Did the warden permit the visit?
A No.
Q Which warden is this now?
A It's Warden Yukins.
Q Did the warden indicate to you why?
A That was not within her power to do. It was a department policy that came out of Lansing and she expressed to me that she was very sympathetic. She expressed to me that she didn't understand why we couldn't see siblings and just said that she was sorry. There was nothing she could do. I did have

some minimal contact, not really contact, because he didn't respond, but I did write Lansing and I wrote the director's office.
Q Did you get a response?
A No, no.
Q Did Raymond end up having problems with the law?
A Yes, because of the drug use, he got in trouble.
Q And was he -- I mean, he was arrested for that?

A Yes.
Q Did he end up on probation?
A Yes. He was on juvenile probation for possession of marijuana at school.
Q And that as out of Grand Rapids?
A I believe that was out of Muskegon County, actually. It's right over there.
Q By 1999, how was he doing, from your knowledge of, I guess, letters?
A We were losing him. He would just go places. I don't know where.
Q Did he end up arrested again?
A Yes.
Q Where was that?
A To the best of my knowledge he was arrested in Grand Haven.
Q What happened then?

A He was found in possession of a fairly large quantity of crack cocaine that was allegedly packaged for delivery.
Q And what happened when he was in the jail?
A They filed a petition to prosecute him as an adult.
Q And then what happened?
A Shortly after that, he committed suicide.
Q Do you believe -- and I know this is just a belief --
do you believe it would have made a difference if you could have seen him?

A For him or me?
Q For both of you.
A Most definitely for me and most assuredly for him.
Q Would it have made any difference if the visits were non-contact or contact?
A It would have made a difference.
Q Right.
A But I would have been okay even seeing him non-contact. Something.

MR. BARNHART: I don't have anything further.

THE COURT: Do you need a break?

MS. WARD: Could we have five minutes, your Honor?

THE COURT: You can have five minutes. And

you may step down.
(Whereupon a recess is taken.)

CROSS-EXAMINATION
BY MR. THOM:

Q What is your brother, Raymond's, last name?
A Causely (ph).
Q Your father's name is Douglas McKay (ph)?
A Yes.
Q What was your mother's maiden name?
A Her maiden name is McKay.
Q Your mother's?
A Oh, I'm sorry.
Q Before she was married?
A Wickam (ph).
Q She was married to Mr. Douglas McKay?

A Yes.
Q What was her name before she was married?
A Wickam.
Q And so was Raymond your half-brother?
A We have the same mother but not the same father.
Q Okay. And you were convicted of first degree murder and given a life sentence in 1992, is that correct?

MR. BARNHART: Your Honor, objection if he is heading toward the question of what she is serving time for.

MR. THOM: I think I'm allowed to impeach her with a conviction under Rule 609, your Honor.

THE COURT: Well, I mean, I'll take the basic facts. I heard from the length of her sentence and other comments that she was in for something serious. So I don't think we need to go into the details of it.

MR. THOM: I'm just imeaching under 609.

Q (Continuing, by Mr. Thom): When you came to prison in 1990, your brother was living with his biological mother who was also your mother, correct?
A Correct.
Q Did you know who Rayomnd's father is?
A Certainly.
Q Could you tell me?
A Raymond Causley, Senior.

17 Q Now, does he have any parental rights over Raymond at
18 this time?
19 A He is deceased, so I would assume not.
20 Q When did he die?
21 THE COURT: Her brother is deceased. Her
22 brother is deceased.
23 MR. THOM: Her brother is Raymond who she
24 is saying she wants to visit her.
25 THE COURT: He committed suicide. Did you

9/8/00 Trial Transcript Diane Spencer Page 147

1 miss that?
2 MR. THOM: I'm sorry. I did miss that.
3 That's all I have, your Honor.
4 THE COURT: Anything further?
5 MR. BARNHART: Nothing further.
6 THE COURT: Thank you, Ms. Spencer. You
7 may be excused.
8 THE WITNESS: Thank you, your Honor.

Tx 31

Approved by the Michigan State Court Administ

PC 817

STATE OF MICHIGAN PROBATE COURT COUNTY OF OAKLAND	ORDER Regarding Visitation	FILE NO. 90-204,807-GD

In the matter of Dionta Anthony Staton, Minor

1. Date of hearing: January 7, 1998 Judge: Edward Sosnick

On petition filed, THE COURT FINDS that:

2. Notice of hearing was given to or waived by all interested parties.

IT IS ORDERED that: the Petition for Visitation is granted in part as follows:
Guardian, June Oden, shall take Dionta to visit his mother, Kim Staton, on a quarterly basis (every 3 months) as long as Kim Staton's placement with the Department of Corrections makes it geographically feasible.

scf

291a -

1-7-98
Date

Judge of Probate Edward Sosnick

Attorney name Bar no.

Address

City, state, zip Telephone no.

Do not write below this line - For court use only

FILED January 7 1998

Film

Laura J. Mick
Deputy Register of Probate

ORDER, Form No. PC47, Revised 7/87

BEST AVAILABLE COPY

PROBATE JUDGES
BARRY M. GRANT
LINDA S. HALLMARK
EUGENE ARTHUR MOORE
SANDRA G. SILVER

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Probate Court
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LISA SYMULA, ESQ.
Probate Register

JOAN CONNELLY
Case Management Coordinator
(248) 858-0288

February 4, 1998

Ms. Kim Staton #188237
47500 Five Mile Road
Plymouth, MI 48170

Dear Ms. Staton:

Enclosed is a copy of the order from the hearing that took place on January 7, 1998. The order was not yet in the file when I spoke with you on the telephone. I have mailed copies to all parties on the above date.

I spoke with Judge Sosnick's office, and he prefers to wait until 4 months go by to see if the guardian brings Dionta to visit as per the court order. If visitation does not occur, you may repetition the Court (form enclosed) and we will do another Writ of Habeas Corpus.

I cannot explain why you were not brought up to the courtroom for the hearing, however it was the first week of the new Family Division and somewhat confusing all around. I'm sure the same thing would not happen again.

I hope the court-ordered visitation works out for everyone concerned.

Sincerely,

Joan Connelly

Joan E. Connelly

292a -
scf

February 8, 1998

Dear Warden Yukins:

I enclosed a copy of my court order to have visits with my son.

Can you tell me what type of provisions you can make for this to happen?

Thanks for your time and cooperation in this matter.

Sincerely,

N.B. K Staton
#188237-B-19B

cc: Atty Deborah LaBelle

Michigan Department of Corrections

Memorandum

DATE: February 23, 1998

TO: Kim Staton, #188237
B-19-B

FROM: J. N. Yukins, Warden
Scott Correctional Facility

SUBJECT: Permanent Visiting Restriction

This is in response to your inquiry dated February 18, 1998 requesting provisions to visit with your son. Your Permanent Visitor Restriction due to Substance Abuse Misconducts is not affected by the Court Order. The Order merely requires the child's guardian to bring the child to visit with the prisoner. It does not require the Department to allow such visits to occur. Thus, this Order has no effect on your permanent visitor restriction.

JNY/bc

cc: file

Dear Sister,

We talked to you today and I was sad for you to not come to moms funerral. It was pretty for her Beager so dont worry. We talked about you too and how she love you. I miss you so much. Aunt Bonnie going to ask that man at the office in Lansing Can I come to see you. I hope so. I want to give you a hug. When I get 18 I will come see you every week. I miss our talks, laughs, being Stupid. Ha! He Maybe you'll get to come home soon. Then we can live together and we can be here for eachother too. Im! So Sad for Mom Beager

Please call me soon okay. I miss you and need to talk to you. Ask the people there too can I see you. Even just once in a month would be good. I hope you like the paper. Aunt Bonnie got it to write you pretty letters on. Call me when you get my letter. I love you Beager. Be strong and remember to be good!

Sincerely Yours,
Raymond Edward Causley

April 21, 1994

Dear Sister,

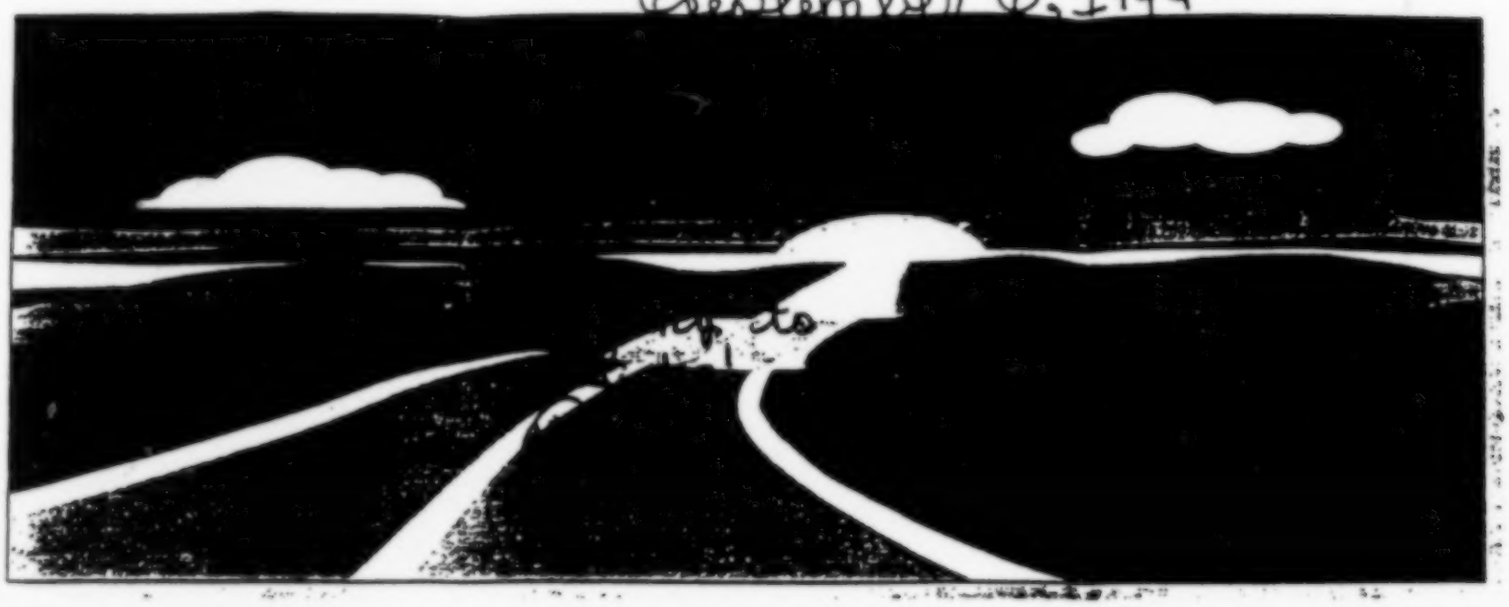
I made you this paper on my new computer. Do you like us on the beach? Remember when we use to go to Dumont Park? I miss when you were home Beager. Aunt Bonnie told me about the visiting Beager. Why didn't you tell me first? Why can't I see you at all? I talked to the psichiatrist and he said since Jin is juiverile they maybe can let me see you. I miss you

Beagor. Why can't I they just let me come since Mom dyed? What do it hurt! Did you tell them I am going threw problems and you are my second Mom to? Please ask them again. If I go to jail it could be to long before I can see you and I miss you Sister.

I hope I don't make you to sad. Im lonely to. Please write me soon.

Your Brother Boo Boo.

P.S XOXOXOXO!!!!!!!!!! Raymond



September 6, 1994

Dear Sister,

I am home again now. Im sorry for getting in the trouble. I cant say why and you are the only one who not mad at me. Doug or Brian didnt come see me. Uncle Gary said you tryed to come to the jail but them "bastards" wouldnt let you. We could have had a visit. How come they can let me go to adult jail to stay but I cant come see you? Uncle Gary said he

is still trying, but I don't feel they will change there minds anyway. I hate them people Beager and you can forgive them because you're so sweet and caring but I hate them for not letting me see you. You're just like Mom was to me so how come that doesn't count? I'm depressed today but I have to go to the bakery with Uncle Gary's. I am so lonely Beager. So write me write back and we'll be strong together!

Sincerely,
Raymond "Edward"

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

Cancel--
Prisoner Atkins
died 9-16-97
Per M [illegible]
[Handwritten Notation]

DATE: September 9, 1997

TO: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

FROM: Jerry Hofbauer, A/Warden
Southern Michigan Correctional Facility

SUBJECT: Request for Reinstatement of Visiting Privileges – Atkins, #237134

Attached for your review is a request from Judy Evans (mother of above) for reinstatement of visits with her son, Ben Atkins, #237134.

Prisoner Atkins received a 6 month restriction on 12/5/96 as a result of two substance abuse (alcohol related) tickets on 3/6/96 and 10/27/96. There have been no subsequent misconducts since that time. His mother is now requesting visitation privileges due to his declining health. Prisoner Atkins is currently on temporary release to Duane Waters Hospital.

Ms. Evans has previously visited and there is an approved application on file for her. However, there is no other approved application in his file for a "brother". I support her request for visitation.

Please review and advise at your earliest convenience.

JH/EB/jp
Attachment
cc: File

231134
73-A-15,
Imp Det

Aug 28, 1997

Dear Warden Hofbauer, I'm writting concerning my son Benjamin Atkins. Benjamin is now a patient at Duane Water Hosp., slowly dying of kids. Sir, I begins by telling you what I've been told.
1. I was told by your office that Bens, visits had been canceled indefinately because of involement in or with substance abuse, by Kenneth McGinnis. I talked to his office was told he only recommend this. I talked to everyone with authority, about my request, the warden over the hospital, also. The Asst, [redacted]. By now I know your wondering what I'm talking about. Warden, Phillips said that you would have to clear the way, so I and my other son could see Ben, Mr Phillips said that Ben would have

- 302a -

to write you but the shape he's in I don't think he is able to do that. So I writting for him. I was able to see Ben a couple of weeks ago because they thought he was on His death bed. Worden, Ben has to wear diapers & also a machine connected to his private part so he won't ~~B~~ wet himself. Warden Hofbauer, I'm only asking that we be able to visit Ben at least 1 or 2 times a month before the last minute, Warden Hofbauer, please let me and my other son visit Ben please find it in your heart please

Thank you
Ms Judy Evans

PS DR Thkur is his DOCTOR.
Sir. the only way I found out that my son was in the hosp.
over

when I said I haven't seen him
in all those months is because
his visit had been cut off 6mo
before he went in the
hospital, for what I do
not know.

USC

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

Not Sent - Inmate is dead this day

DATE: September 16, 1997

TO: Deputy Director Bolden

FROM: Kenneth L. McGinnis, Director

SUBJECT: Request for Reinstatement of Visiting Privileges - Atkins, #237134

On 12/05/96 all of the above-referenced prisoner's visiting privileges were restricted because he had been found guilty on 3/26/96 and 11/15/96 for substance abuse (alcohol). Since that date he has been major misconduct free.

Complete reinstatement of contact visiting privileges are authorized. Please ensure the facility and prisoner are notified of this decision.

Kenneth L. McGinnis, Director

KLM:1

cc: Warden Hofbauer, SMI

Dan -
Loss of Visits 12-5-96
2 - 5/A (alcohol)
Has been MM free. Ok to Reinstate Dan
Is eligible for complete restoration of contact visits.

697

- 305a -

MICHIGAN DEPARTMENT OF CORRECTIONS

Received
Warden's Office
'96 Dec 13 PM 3:19
[Stamp]

MEMORANDUM

cc: Record Office File
Counselor File
Central Office File
Information Desk
SCC Coordinator
Prisoner
J Pfaff 11/16/96
[Handwritten]

DATE: December 5, 1996

TO: Deputy Warden Bolden
Correctional Facilities Administration

FROM: Kenneth L. McGinnis, Director

SUBJECT: Atkins, #237134 *55-B-11[Handwritten]*

Effective immediately, prisoner Atkins shall not be permitted any visits as you have recommended. You cite R 791.6609(11) as the authority to restrict all visits. It should be noted that prisoners who are subject to a total restriction must still be allowed visits with attorneys and qualified clergy as outlined in PD 05.03.140 - "Prisoner Visiting Policy."

This decision is based on recent major misconduct guilty findings of prisoner Atkins, #237134 for Substance Abuse. The incidents occurred at the SPSM - Central Complex. On 3/06/96 during a cell shakedown 25 pop bottles filled with a fermenting liquid determined to be prison made alcohol was found. He was found guilty at a 11/15/96 hearing. **I will review this case in six months.**

By copy of this memo to Warden Hofbauer and A/RPA Grant this shall serve as their notification of this action. Warden Hofbauer shall ensure that a copy of this memo is placed in the prisoner's record office and counselor files.

/S/
Kenneth L. McGinnis, Director

KLM: plb
cc: A/RPA Grant
Warden Hofbauer (w/attach)

MICHIGAN DEPARTMENT OF CORRECTIONS

12-4-96

MEMORANDUM

Lori
Pls request a 6 month restriction for substance abuse.

DATE: November 21, 1996

Thanks
Dan
[Handwritten]

TO: William Grant, A/Regional Administrator

FROM: Jerry Hofbauer, Warden
SPSM - Central Complex

SUBJECT: **Denial of All Visiting Privileges - #237134 Atkins**

In accordance with DOM 1996-42, I am requesting denial of **all** visitation privileges for the above prisoner.

Prisoner Atkins was found guilty of the following substance abuse violations since August 25, 1995: 10/27/96 034, 3/6/96 034.

Due to the prisoner's inappropriate behavior, I am submitting this request for your approval and forwarding to Deputy Director Bolden and Director McGinnis.

Thank you for your attention to this manner.

JH/cw

Attachments

cc: file

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: April 24, 1998

TO: Warden Caruso
Chippewa Temporary Correctional Facility

FROM: Dan L. Bolden, Deputy Director
Correctional Facility Administration

SUBJECT: Request for Reinstatement of Visiting Privileges – Wood, #233162

On 8/12/97 all of the above prisoner's visiting privileges were restricted because he had been found guilty on 2/13/96 and 3/6/96 for substance abuse (alcohol). He was eligible for review in six months.

The request for reconsideration cannot be processed at this time because this prisoner does not meet the criteria for reconsideration to reinstate all visiting privileges. Since the restriction date he received a major misconduct on 11/25/97 for disobeying a direct order, which has a hearing date of 12/16/97. He has therefore not been six months misconduct free.

Please notify the prisoner of this decision. If you have any questions regarding this memo, please contact me.

Thank you.

[Handwritten]
Pls' Ex 40
692A p. 1-11

BM:plb
cc: A/RPA Johnson

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: March 9, 1998

TO: Richard Johnson, A/RPA
Central Facilities Administration

FROM: Patricia L. Caruso, Warden
Chippewa Correctional Facility

SUBJECT: Visitor Restriction

Prisoner Wood #233162, who is housed at the Chippewa Temporary Facility has requested restoration of his visiting privileges. On 8-12-97 he was placed on permanent visitor restriction by Director McGinnis. This action was taken due to the prisoner receiving two major misconduct guilty findings for Substance Abuse (alcohol).

In reviewing the prisoner's file I note that he has received an additional misconduct (Disobeying a Direct Order) since the restriction was placed into effect. I recommend a further period of demonstration by the prisoner before his visiting privileges are restored.

cc: file

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: August 12, 1997

TO: Deputy Director Bolden
Central Facilities Administration

FROM: Kenneth L. McGinnis, Director

SUBJECT: Wood, #233162

Effective immediately, prisoner Wood shall not be permitted any visits as you have recommended. You cite R 791.6609(11) as the authority to restrict all visits. It should be noted that prisoners who are subject to a total restriction must still be allowed visits with attorneys and qualified clergy as outlined in PD 05.03.140 – "Prisoner Visiting Policy."

This decision is based on recent major misconduct guilty findings of prisoner Wood, #233162 for Substance Abuse. The incidents occurred at Chippewa Temporary Correctional Facility. On 1/26/96 during a cell shakedown three containers filled with a fermenting liquid determined to be prison made alcohol were found. He was found guilty at his hearing on 2/13/96. On 2/20/96 during a cell shakedown a bottle filled with a fermenting liquid determined to be prison made alcohol was found. He was found guilty at his hearing on 3/6/96. **I will review this case in six months.**

By copy of this memo to Warden Burt and RPA Quarles this shall serve as their notification of this action. Warden Burt shall ensure that a copy of this memo is placed in the prisoner's record office and counselor files **and that he is housed in not less than a secure Level I facility.**

/S/
Kenneth L. McGinnis, Director

KLM:tsc:

cc: RPA Quarles
Warden Burt

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: July 30, 1998

TO: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

FROM: Kenneth L. McGinnis, Director

SUBJECT: Carey, #172502

Effectively immediately, prisoner Carey shall not be permitted any visits as you have recommended. You cite R 791.6609(11) as the authority to restrict all visits. It should be noted that prisoners who are subject to a total restriction must still be allowed visits with attorneys and qualified clergy as outlined in PD 05.03.140 – "Prisoner Visiting Policy."

This decision is based on recent major misconduct guilty findings of prisoner Carey, #172502 for Substance Abuse. The incidents occurred at the Riverside Correctional Facility. On 6/17/98 during a cell shakedown 2 pop bottles filled with a fermenting liquid determined to be prison made alcohol were found. He was found guilty at his hearing on 6/25/98. On 6/3/98 this prisoner spit out restricted medication that was given to him during medication pass. He was found guilty at his hearing on 6/12/98.

By copy of this memo to Warden Adams and RPA Bach this shall serve as their notification of this action. Warden Adams shall ensure that the prisoner is notified of this decision and

that a copy of this memo is placed in the prisoner's record office and counselor files.

/S/
Kenneth L. McGinnis, Director

KLM:plb

cc: RPA Bach
Warden Adams, RCF

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: July 1, 1998

TO: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

FROM: Jo Ann Bach, Regional Prison Administrator
Correctional Facilities Administration –
Region II

SUBJECT: Request for Denial of All Visiting Privileges

Please process the attached request for the denial of all visiting privileges for Carey #172502, RCF.

Attachment

JAB:mmk

MICHIGAN DEPARTMENT OF CORRECTIONS
Riverside Correctional Facility
MEMORANDUM

DATE: June 29, 1998

TO: Jo Ann Bach
Regional Administrator, CFA, Region II

FROM: Stanley Adams, Warden, RCF

SUBJECT: Permanent Visitor Restriciton – Carey
#172502 10-2E-05

In accordance with PD 05.03.140, I am recommending a permanent visitor restriction on this prisoner. He has incurred the following major misconducts for substance abuse: 9-25-97 Substance Abuse-Alcohol-HVM, 6-3-98 Substance Abuse-Other-RCF, and 6/17/98 Substance Abuse-Alcohol-RCF. Copies of the misconducts are attached for your review.

/kh
cc: File
Attachment

MICHIGAN DEPARTMENT OF CORRECTIONS

MAJOR MISCONDUCT HEARING REPORT

CSJ-240 B

Prisoner Number	Prisoner Name	Institution	Violation Date
172502	Carey	RCF	6-17-98

Charge: 034 Substance Abuse

If charge changed by H. O.:

Plea [X] GUILTY [ ] NOT GUILTY

Major Misconduct Report Read To and Discussed with Prisoner (Check if Applies) [X]

Hearing Investigation Read To and Discussed with Prisoner (Check if Applies) [ ]

No Hearing Investigation Requested [X] (Check if Applies)

EVIDENCE / STATEMENTS IN ADDITION TO MISCONDUCT REPORT:

Misconduct report, statement of RUO Whalen, photo showing the 2 20 oz bottles filled with yellow/orange liquid, the treatment team review of J. Fossler indicating prisoiner was responsibl for his behavior at the time, and the HI's questions and statement to, and the answer of Sgt Halsey, describing the liquid by odor and apperance, all read/shown to and d :ussed with prisoner. He admits possessing the alcohol in his cell,and said he peld guilty. He siad he did not have staff authorization to have alcohol in hiscell on 6-17-98. He pled guilty, and made no other comments.

REASONS FOR FINDING:

Hearing officer finds the evidence presented at this hearing to be credible and persuasive. H.O. finds that at and prior to 1525 on 6-17-98, this prisoner knowingly possessed in his cell, in his locker wrapped in clothing, 2-20 oz. bottles containeng fermented juice, or alcohol. H.O. finds the prisoner did not have staff authorization to possess alcohol in this case. Charge sustained.

FINDINGS:

CMIS Code 034

CHARGE NO. 1 [X] GUILTY [ ] NOT GUILTY [ ] DISMISSED

CHARGE NO. 2 [ ] GUILTY [ ] NOT GUILTY [ ] DISMISSED

CHARGE NO. 3 [ ] GUILTY [ ] NOT GUILTY [ ] DISMISSED

CHARGE NO. 4 [ ] GUILTY [ ] NOT GUILTY [ ] DISMISSED

DISPOSITION(S):

____ Days of Detention 7 Days Toplock

Begins 6-26-98 Ends 7-3-98

____ Days Loss Privileges ____ Credit Days

Begins ____ Ends ____

$____ Restitution ____ Hours of Extra Duty

HEARING OFFICER'S NAME & CMIS CODE (Typed): Israel 031

HEARING OFFICER'S SIGNATURE: D. Kl

Major Misconduct Hearing Report personally handed to Prisoner by Hearing Officer this date (check if applies) [X]

Major Misconduct Hearing Report Given to Staff Member by Hearing Officer for Delivery to Prisoner this date (check if applies) [ ]

Date of Hearing: 6-25-98

(Name & CLock No. of Staff Member)

DISTRIBUTION: White - Institution File; Green - Central Office; Canary - Prisoner; Pink - Counselor; Goldenrod - Hearing Investigator

316a -

BEST AVAILABLE COPY

MICHIGAN DEPARTMENT OF CORRECTIONS

MAJOR MISCONDUCT REPORT (Please Print or Type)

CSJ 240 A

Prisoner Number	Prisoner Name	Institution	Violation Date
172502	CAREY	RCF	6-17-98

Time & Place of Violation	Housing Unit	Room/Cell/Bunk	Reporting Staff Member's Name & Clock No.
1525 10-2-E-5	10-2	5-E	J. Palmer 2559

Name of Major Misconduct Charge and CMIS Code

~~042~~ 034 Substance abuse (alcohol)

Describe Violation:

at the above time while doing a routine shake down of Prisoner Carey's Room I found two (2) 2 liter pop bottles (20 oz each) of spud juice wrapped in a tee shirt in the bottom of his locker under a stack of clothes. Spud juice verified by Sgt Halsey and a picture of spud is attached. When I asked Prisoner Carey about the spud he said "Someone had to tell you I had spud cause you couldn't find it on yaths own." Prisoner known by daily contact and ID

Misconduct Written Date: 6-17-98 Time: 1545

Other Employee Witnesses? (List) W. Whalen

Reporting Staff Member's Signature J Palmer

Reviewing Officer's Action:

Location/Verification of Evidence

Status Pending Hearing: ☒ Bond ☐ Toplock ☐ Segregation ☐ Other

Reason (if non-bond): ☐ Non-Bond List ☐ Bond Revoked (Must give reason)

Date and Time Given This Status: (Who notified in housing unit)

If Status Changed, Give Date

Hearing Investigator Requested? ☒ No ☐ Yes

Witnesses Requested? ☒ No ☐ Yes

Relevant Documents Requested? ☒ No ☐ Yes (list)

Additional Comments:

prisoner refused to participate in review proceed. AtlH

Hearing Date 6-24-98

NOTE: Your statement at this hearing will not be admissible in a criminal trial on this matter except for purposes of impeachment or rebuttal.

I Waive 24 Hour Advance Notice (Prisoner's Signature)

Date of Review 6-17-98

Time of Review 1600

NOTE: IF YOU ARE FOUND GUILTY OF MAJOR MISCONDUCT:

(1) You may be classified to a higher level of security, including Administrative Segregation.

(2) You will forfeit the disciplinary credit or good time earned for the month in which the misconduct occurred.

(3) You may lose accumulated good time or disciplinary credits, if ordered by the Warden

DISTRIBUTION: White - Institution File; Green - Central Office File; Canary - Prisoner; Pink - Counselor; Goldenrod - Hearing Investigator

SGT. R. HALSEY #1557

(Print or Type Reviewing Officer's Name & Clock No.)

Sgt R Halsey

(Reviewing Officer's Signature)

prisoner refused to participate in review proceed

(Prisoner's Signature) Copy given. Sgt RH

I have received a copy of this report. My signature verifies receipt only and does not mean that I agree with this report.

297

117a

MICHIGAN DEPARTMENT OF CORRECTIONS

MAJOR MISCONDUCT HEARING REPORT

0S2

4835-4241 (R91)
CSJ-240 B

Prisoner Number	Prisoner Name	Institution	Violation Date
172502	CAREY	RCF	6/3/98

Charge: 042 SUBSTANCE ABUSE

If charge changed by H. O.:

Plea [XXX] GUILTY [ ] NOT GUILTY

Major Misconduct Report Read To and Discussed with Prisoner (Check if Applies) [XXX]

Hearing Investigation Read To and Discussed with Prisoner (Check if Applies) [ ]

No Hearing Investigation Requested [XX] (Check if Applies)

EVIDENCE / STATEMENTS IN ADDITION TO MISCONDUCT REPORT:

Prisoner present. Pleads guilty stating he did throw them away and he later talked to the doctor who told him to just refuse them if he did not want to take them. States sometimes they caused him to be constipated. Also read out loud statement of officer Elzerman and viewed photocopy [redacted] showing a pill and capsules identified by reporter as Benadryl and Thorazine and read treatment team review dated 6/6/98 indicating that prisoner appears to be responsible for his behavior at or near the time of the alleged misconduct.

REASONS FOR FINDING:

Hearing officer finds based on the statment of RN Crowell and officer Elxerman [redacted] that prisoner picked up his meds and put them in his mouth and took a drink of water [redacted] and turned away and spit the meds in a cup and threw them away. Hearing officer finds that prisoner did take the meds and they are restricted but that he was authorized to possess them for the purpose of taking them and he could have refused them but that he instead threw them away. Hearing officer finds that this was an "Unauthorized" possession as he was only authorized to take the meds and not throw them away. Charge sustained.

FINDINGS:

				CMIS Code
CHARGE NO. 1	[XXX] GUILTY	[ ] NOT GUILTY	[ ] DISMISSED	042
CHARGE NO. 2	[ ] GUILTY	[ ] NOT GUILTY	[ ] DISMISSED	
CHARGE NO. 3	[ ] GUILTY	[ ] NOT GUILTY	[ ] DISMISSED	
CHARGE NO. 4	[ ] GUILTY	[ ] NOT GUILTY	[ ] DISMISSED	

DISPOSITION(S):

_____ Days of Detention 7 Days Toplock

Begins 6/14/98 Ends 6/21/98

_____ Days Loss Privileges _____ Credit Days

Begins _____ Ends _____

$_____ Restitution _____ Hours of Extra Duty

HEARING OFFICER'S NAME & CMIS CODE (Typed): JACKSON 028

HEARING OFFICER'S SIGNATURE:

Major Misconduct Hearing Report personally handed to Prisoner by Hearing Officer this date (check if applies) [XXX]

Major Misconduct Hearing Report Given to Staff Member by Hearing Officer for Delivery to Prisoner this date (check if applies) [ ]

Date of Hearing: 6/12/98

(Name & CLock No. of Staff Member) 298

DISTRIBUTION: White - Institution File; Green - Central Office; Canary - Prisoner; Pink - Counselor; Goldenrod - Hearing Investigator

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: March 29, 1999

TO: Mixen #249102
H-2-38

FROM: Patricia L. Caruso, Warden
Chippewa Correctional Facilities

SUBJECT: Visiting Privileges

As you know, in January I submitted a recommendation to RPA Johnson to have your visiting privileges restored since it had been two years. However, even though you technically meet the criteria set by policy of your visiting privileges being restored, it has been decided by RPA Johnson and I concur, that your overall institutional history has not been very good. Since your restriction was placed in January 1997, you received 6 other misconducts, even though none of those were for substance abuse.

Since visiting is a privilege, and your institutional record has not been good, we have decided that you must maintain a year of misconduct free behavior before we will consider removing the restriction. Therefore, since your last misconduct was on July 20, 1998, we will not consider you for reinstatement until after July 30, 1999. You may kite me again at that time if you have maintained misconduct free behavior.

cc: RPA Johnson
R.O. File
Counselor File
File

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: January 19, 1999

TO: RPA Rich Johnson
Correctional Facilities Administration

FROM: Patricia L. Caruso, Warden
Chippewa Correctional Facilities

SUBJECT: Reinstatement of Visiting Privileges
Mixen #249102 *H-2-38 [Handwritten]*

PD 05.03.140 states at GGG, "If eligible for removal of the restriction based on the criteria set forth above, prisoner may request removal of the restriction by sending a written request to the warden of the facility where the prisoner is housed…….the warden shall submit his/her written recommendation, along with the prisoner's written request if one was submitted, to the appropriate RPA……"

Prisoner Mixen had a visitor restriction placed on him by the Director in January 1997 for substance abuse violations. He is at this time requesting that his visiting be reinstated, copy of that request is attached.

Prisoner Mixen has remained misconduct free from substance abuse tickets since 11/96 and I recommend his visits be restored.

[Handwritten]
Warden
Pls review again.
It looks like
5 other tickets?
R. Johnson/rc 1/27/99

cc: R.O. File
Counselor File
Mixen #249102
File

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: July 1, 1997

TO: A/Warden Price
Handlon Michigan Training Unit

FROM: Dan Bolden, Deputy Director
Correctional Facilities Administration

SUBJECT: Request for Reinstatement of Visiting Privileges - Mixen, #249102

I am in receipt of your request for reconsideration to reinstate all visiting privileges of the above-referenced prisoner.

On 1/15/97 all of this prisoner's visiting privileges were restricted because he had been found guilty on 12/03/96 for substance abuse (alcohol) and on 12/23/96 for substance abuse (marijuana). Since that date he has only been four months major misconduct free.

I am not forwarding this request to the Director for approval at this time. Further demonstration of misconduct free behavior by this prisoner is requested before I will seek reinstatement of all visiting privileges.

If you have any questions regarding this memo, please contact Lori Gidley.

DB:2

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

Lori
Pls recommend restoration to [name illegible]
6-10-97
Dan Bolden

DATE: June 5, 1997

TO: Dan Bolden, Deputy Director *[Handwritten]*
Correctional Facilities Administration

FROM: Janette Price, Acting Warden
Handlon Michigan Training Unit

SUBJECT: Mixen #249102 - Reinstatement of Visiting Privileges

Prisoner Mixen #249102 has submitted a request to have his permanent visitor restriction lifted. In checking Visitor Tracking it is noted that visits were permanently ceased by the Director on 1/15/97 due to substance abuse. Staff have reviewed this prisoners file and behavior and note that not only did the prisoner receive the two substance abuse tickets within two days that led to the restriction being imposed, but he also received another major ticket for unauthorized occupation of a cell on 2/26/97.

Unit staff note that he is not a big problem in the unit, receives good work reports for his unit porter job, and recently completed the necessary requirements for custodial maintenance certificate. However, at this time, they are recommending that his visits not be reinstated and I concur with their recommendation.

nkl

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: January 15, 1997

TO: Deputy Director Bolden
Correctional Facilities Administration

FROM: Kenneth L. McGinnis, Director

SUBJECT: Mixen, #249102

Effective immediately prisoner Mixen shall not be permitted any visits as you have recommended. You cite R 791.6609(1) as the authority to restrict all visits. It should be noted that prisoners who are subject to a total restriction must still be allowed visits with attorneys and qualified clergy as outlined in PD 05.03.140 - "Prisoner Visiting Policy."

This decision is based on recent major misconduct guilty findings of prisoner Mixen, #249102 for Substance Abuse. The incidents occurred at the Handlon Michigan Training Unit. On 11/20/96 during a cell shakedown a container filled with fermenting liquid determined to be prison made alcohol was found. He was found guilty at a 12/03/96 hearing. On 11/21/96 he submitted a urine sample for drug testing which tested positive for marijuana. He was found guilty at a 12/23/96 hearing. **I will review this case in six months.**

By copy of this memo to Warden Makowski and RPA Bach this shall serve as their notification of this action. Warden Makowski shall ensure that a copy of this memo is placed in the prisoner's record office and counselor files.

/S/
Kenneth L. McGinnis, Director

KLM:plb
cc: RPA Bach
Warden Makowski

Intramural Correspondence

4855-3105
CSJ 105 4/86

Brian Mixon No.: 249102 Date: 5/21/92

ient: _____ Lock: D-110A

During the month of November of 76 I received 2 (~~tt~~) substance abuse ickets. (~~It has been six mont~~) My visiting privileges were terminated. It as been six months and I was told y case could be reviewed and possibly t my visits back. My question is, en you review my case and get back to e -

Sincerly,
Brian Mixon

- 325 -

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: April 5, 1999

TO: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

FROM: Bill Martin, Director

SUBJECT: Young, #128217

Effectively immediately, prisoner Young shall not be permitted any visits as you have recommended. R 791.6609(11) gives the authority to restrict all visits. It should be noted that prisoners who are subject to a total restriction must still be allowed visits with attorneys and qualified clergy as outlined in PD 05.03.140 – "Prisoner Visiting."

This decision is based on recent major misconduct guilty findings of prisoner Young, #128217 for Substance Abuse. The incidents occurred at the Ryan Correctional Facility. On 8/28/98 he refused to submit a urine sample for routine drug testing. He was found guilty at his hearing on 9/17/98. On 12/22/98 during a cell shakedown two pop bottles filled with a fermenting liquid determined to be prison made alcohol were found. He was found guilty at his hearing on 12/30/98.

By copy of this memo to Warden Smith and RPA Quarles this shall serve as their notification of this action. Warden Smith shall ensure that the prisoner is notified of this decision and

that a copy of this memo is placed in the prisoner's record office and counselor files.

/S/
Bill Martin, Director

BM:plb

cc: RPA Quarles
Warden Smith, RRF

MICHIGAN DEPARTMENT OF CORRECTIONS

MAJOR MISCONDUCT HEARING REPORT Page(1)of(2)

4835-4241 991
CSJ-240 B

Prisoner Number	Prisoner Name	Institution	Violation Date
128217	Young	RRF	8-28-98

Charge: Substance Abuse

Charge changed by H. O.:

Plea ☐ GUILTY ☒ NOT GUILTY

Major Misconduct Report Read To and Discussed with Prisoner (Check if Applies) ☒

Hearing Investigation Read To and Discussed with Prisoner (Check if Applies) ☒

No Hearing Investigation Requested ☐ (Check if Applies)

EVIDENCE / STATEMENTS IN ADDITION TO MISCONDUCT REPORT: He says that he takes a lot of different medications.He says that the rules state he is to be given ~~exgrax~~ extra time if he takes medication.He was asked where is this rule.He says he has it written down.He ~~ewas~~ was asked if it is written in his statement and he said no.He was asked if he brought this ~~ifnax~~ information with him and he said no,he did not know he was coming for the hearing.He says he was not told and he did not look at the pass.He says he is taking dimetapps sinus medication, ~~a~~ in 800,dilantin,and zantac.He ~~xaxax~~ says he did drink water three times ~~fax~~ from the water fountain and he was allowed to drink water whenever he wanted to do so.He says that he tried three times but was ~~unable~~ unable to give a urine sample.He says he was told it was time for him to go.He told hte oficer if he was given a few more minutes he ~~shaldx~~ should be able to urinate.He says the officer told him his time was up.He asys he did ask to speak to a shift commander.He says the officer told him he was writting ~~himm~~ a ticket anyway so he might as well go and he left. He says if the officer had given him the extra time he would have been able to go.He says that he has not had a dirty urine in seven years.He says some older guys cannot just go right away ~~within~~ within the hour ~~and~~ and some of the other officers will give the older guys extra time.

Investigator report read to Prisoenr Young at this time.It consisted of his(cont 2)

REASONS FOR FINDING: The testimony of the reporting officer,Dr.Green,and Nurse Allen is found to be credible as it is not shown to be mistaken or falsified.

Prisoner Allen was notified at 12:40p.m. he was to provide a urine sample for testing.He was given access to water and until 1:44p.m to provide the urine sample.He did not provide a urine sample before leaving He says he was not given enough time based on his medication.His file was checked by Nurse Allen and she sttaed there is no reason why he could not have given the urine sample needed within the time he was given by staff.

As Prisoenr Young was given an hour within which to provide the urine sample,access to water ,and is not shown to have any medication or medical condition which affected his ability to provide urine in the amount needed within the hour,it is determined his failure to provide the sample was voluntary AS he voluntarily failed to provide the sample,he did voluntarily fail to submit to the testing requested by the Department for the purpose of determining the presence of substances covered by the charge.Vioaltion established He was asked if he brought with him the cite for the rule which states he must be given extra time for urine samples if taking medication and he said no.

FINDINGS:

				CMIS Code
CHARGE NO. 1	☐ GUILTY	☐ NOT GUILTY	☐ DISMISSED	043
CHARGE NO. 2	☐ GUILTY	☐ NOT GUILTY	☐ DISMISSED	
CHARGE NO. 3	☐ GUILTY	☐ NOT GUILTY	☐ DISMISSED	
CHARGE NO. 4	☐ GUILTY	☐ NOT GUILTY	☐ DISMISSED	

DISPOSITION(S):

_____ Days of Detention 7 Days Toplock

Begins 9-18-98 Ends 9-25-98

_____ Days Loss Privileges _____ Credit Days

Begins _____ Ends _____

$_____ Restitution _____ Hours of Extra Duty

HEARING OFFICER'S NAME & CMIS CODE (Typed)

Barbara Bush 003

HEARING OFFICER'S SIGNATURE

Major Misconduct Hearing Report personally handed to Prisoner by Hearing Officer this date (check if applies) ☑

Major Misconduct Hearing Report Given to Staff Member by Hearing Officer for Delivery to Prisoner this date (check if applies) ☐

Date of Hearing 9-17-98

(Name & CLock No. of Staff Member)

DISTRIBUTION: White - Institution File; Green - Central Office; Canary - Prisoner; Pink - Counselor; Goldenrod - Hearing Investigator

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CHIGAN DEPARTMENT OF CORRECTIONS

4535-4243 1290
CSJ-240D

Major MIsocnduct(043)
(Type of Hearing)

HEARING REPORT - Continuation Page No. 2

oner Number	Prisoner Name	Institution	Violation/Notice Date
128217	Young	RRF	8-28-98

Evidence/Statements in Addition to Misocnduct Report: ~~xxx~~ statement,notations from Inv.Martin that he did not request any witnesses or documents and a copy of his pass and identification card.He was also read the memo from Dr.Green on the issue of urine production.Prisoenr Young was asked his age.He says fifty-one.He was told th ehearing will be adjourned to later this date for additinal information.He was told it may be ~~xxx~~ necessary for him to sign a medical release for medical information and if he does not sign,he will have the haring without a medical ~~defense~~ defense.He was told when he is recalled for the hearing ~~xxxx~~ he is to bring the paper with the rule which states he must be given more time to give a urine if he is takir ~~medicine~~ medicaiton.

T ~~hearing~~ is ajdourned to have the medical ~~xxxxx~~ staff contacted for a statement ~~elements~~ ~~assessign~~ the following ~~issue~~ issue:Given Prioner Youngs age,medication,and medicnl condition,if he is given unlimited access to water and over an hour,would it be possible for him to provide 10 ml of urine within an hour,or would he need more time?

Hearing reconvened wiht Prisoenr Young on 9-17-98.He was read the information from Nurse Allen and form the Laboratory as to the amount of urine needed for testing.He was told there is no ohter evidence.He was asked if he has anything ot add which has not been ~~given~~ covered. He said no.As there is no ~~other~~ other evidence provided or shown to beneeded,the haring will proceedto the decision at this time.

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RING OFFICER'S NAME & CMIS CODE (Typed)	Copy of Hearing Report personally handed to Prisoner by Hearing Officer this date (check if applies) ☑
Barbara Bush 003	
RING OFFICER'S SIGNATURE	Copy of Hearing Report Given to Staff Member by Hearing Officer for Delivery to Prisoner this date (check if applies) ☐
	Date of Hearing 9-17-98 / (Name & Clock No. of Staff Member) 67

IBUTION: White - Institution; Green - Central Office; Canary - Prisoner; Pink - Visitor/Counselor; Goldenrod - Hearing Investigator

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: April 7, 1999

TO: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

FROM: Bill Martin, Director

SUBJECT: Fountain, #234985

Effectively immediately, prisoner Fountain shall not be permitted any visits as you have recommended R 791.6609(11) gives the authority to restrict all visits. It should be noted that prisoners who are subject to a total restriction must still be allowed visits with attorneys and qualified clergy as outlined in PD 05.03.140 – "Prisoner Visiting."

This decision is based on recent misconduct guilty findings of prisoner Fountain, #234985 for Substance Abuse. On 12/14/96 at the Brooks Correctional Facility during a cell shakedown this prisoner had knowledge of his roommate having prison made alcohol in their room. He was found guilty of accomplice to substance abuse at his hearing on 1/2/97. On 1/31/99 at the Mound Correctional Facility he submitted a urine sample for routine drug testing that was positive for marijuana. He was found guilty at his hearing on 3/1/99.

By copy of this memo to Warden Robinson and RPA Quarles this shall serve as their notification of this action. Warden Robinson shall ensure that the prisoner is notified of this decision and that a copy of this memo is placed in the prisoner's record office and counselor files.

/S/
Bill Martin, Director

BM:plb

cc: RPA Quarles
Warden Robinson, NRF

[Handwritten Note]
[Pls Ex 40]
[692B p. 1-6]

Forged

MICHIGAN DEPARTMENT OF CORRECTIONS

4835-4240 5/92
CSJ-240 A

MAJOR MISCONDUCT REPORT (Please Print or Type)

Prisoner Number	Prisoner Name	Institution	Violation Date
234985	Fountain	URF	12-14-96

Time & Place of Violation	Housing Unit	Room/Cell/Bunk	Reporting Staff Member's Name & Clock No.
1840hrs. E 10	Eastlake	10T	Roth 7383

Name of Major Misconduct Charge and CMIS Code
634 Substance Abuse

Describe Violation: On the above date and time while doing a routine shakedown I found in Fountain #234985 area of control a garbage bag wrapped up in a blanket in front of his locker in the floor near the heater. It contained a pulpy orange colored liquid with a strong odor of fermentation. I asked Prisoner Holmes #185190 who was standing there, if it was his which he denied. Holmes stated "I dont know what that is, it's not mine. Fountain had no staff authorization to be in possession of this liquid."
See attached memo and photo
Prisoner ided by prior unit contact.

Misconduct Written Date: 12-14-96 Time: 2145hrs

Other Employee Witnesses? (List): RUO Sarachman

Reporting Staff Member's Signature: Roth

Reviewing Officer's Action:
Location/Verification of Evidence: Verified To be a pulpy orange colored liquid with the strong odor of fermentation. Sgt Baugus 12-14-96

Status Pending Hearing: ☒ Bond ☐ Toplock ☐ Segregation ☐ Other

Reason (if non-bond): ☐ Non-Bond List ☐ Bond Revoked (Must give reason)

Date and Time Given This Status: (Who notified in housing unit) 12-15-96 1425 RUO Sarachman

If Status Changed, Give Date

Hearing Investigator Requested? ☐ No ☒ Yes

Relevant Documents Requested? ☒ No ☐ Yes (list)

Witnesses Requested? ☐ No ☒ Yes
✓Ps Holmes 185190 E-10-B
✓RUO Roth
✓RUO Sarachman

Additional Comments: "My bunkie said To Officers that it was his"

Hearing Date: 12-20-96

NOTE: Your statement at this hearing will not be admissible in a criminal trial on this matter except for purposes of impeachment or rebuttal.

I Waive 24 Hour Advance Notice (Prisoner's Signature)

Date of Review: 12-15-96 Time of Review: 1425

NOTE: IF YOU ARE FOUND GUILTY OF MAJOR MISCONDUCT:
(1) You may be classified to a higher level of security, including Administrative Segregation.
(2) You will forfeit the disciplinary credit or good time earned for the month in which the misconduct occurred.
(3) You may lose accumulated good time or disciplinary credits, if ordered by the Warden

Sgt Baugus 5619.
(Print or Type Reviewing Officer's Name & Clock No.)

Sgt Baugus
(Reviewing Officer's Signature)

234985
(Prisoner's Signature)

I have received a copy of this report. My signature is...

DISTRIBUTION: White - Institution File; Green - Central Office File;

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MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: June 9, 1999

TO: Acting Warden Berghuis
Muskegon Temporary Facility

FROM: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

SUBJECT: Request for Reinstatement of Visiting Privileges – Johnson, #162312

I am in receipt of your correspondence regarding reinstatement of visiting privileges for the above referenced prisoner.

On 4/29/97 all of prisoner Johnson's visits were restricted because he had been found guilty on 3/1/96 and 4/10/97 for substance abuse (non-alcohol). Since the restriction date he received another substance abuse misconduct for marijuana on 8/10/98.

I am not forwarding this request to the Director for approval at this time. Further demonstration of major misconduct free behavior by this prisoner is requested before I will seek reinstatement of his visiting privileges.

Please ensure the prisoner is notified of this decision.

DLB:pb

cc: RPA Bach

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: April 8, 1999

TO: Jo Ann Bach, Regional Prison Administrator
Correctional Facilities Administration,
Region II

FROM: Joseph Abramajtys, Warden
Brooks Correctional/Muskegon Temporary
Facilities

SUBJECT: Request for Reinstatement of Visiting
Privileges – Prisoner Johnson, #162312

In accordance with PD-05.03.140, I have reviewed a request regarding the above referenced prisoner for restoration of visiting privileges. Attached is my Recommendation for Reinstatement of Visiting Privileges for processing this request.

Thank you in advance for your assistance.

JA:js

cc: FU 4-29-99

Michigan Department of Corrections
PRISONER STATIONERY

1-7-
4-7-99
MTF

TO:			FROM:	
NAME			NAME	
NO. AND STREET OR R.R.			NO.	LOCK
CITY	STATE	ZIP	INSTITUTION	DATE

N CORRESPONDENCE, USE NAME AND NUMBER ON YOUR LETTER AND ENVELOPE.

April 6, 1999

Dear Warden

My name is Merion Johnson #162312, E26T. I'm writting to you to request reinstatement of my visits pes P.D. 05.03.140: pg 11 of 12 FFF(2) and GGG(2).

In April 1997 I was placed on pisment restriction for a refusal and dirty urine. It wasn't associated with a visit. I haven't seen my family since 94. I completed Phase II substance abuse and attend voluntary AA/NA. I have 3 more classes and I will have completed Stress, Rage, Addiction. I have held a job while on this restriction.

I accept full responsibility for my actions. I lost my mother and I tried weed to try and ease the hurt. I realize now I only hurt myself & family even more. I have been incarcerated for 19 straight years and just got a 13 month flop that night. My family basically my aunt that's all I got needs to see me and I need to see them. I relapsed once (1) out of 5 years on 3/98.

This policy states in GGG; I must send a written request to the warden where I'm housed. Also in GGG (2) It states; if my request is denied I shall be notify in writting when I'll be eligible to apply for removal. So I make this request. I'm not sure if this includes non-contact request but I asked that also!

Thank You!

Mr. Merion Johnson #162312
E 26T

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MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: February 9, 2000

TO: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

FROM: Bill Martin, Director

SUBJECT: Sanders, #193320

Effectively immediately, prisoner Sanders shall not be permitted any visits as you have recommended. R 791.6609 (11) gives the authority to restrict all visits. It should be noted that prisoners who are subject to a total restriction must still be allowed visits with attorneys and qualified clergy as outlined in PD 05.03.140 – "Prisoner Visiting."

This decision is based on recent major misconduct guilty findings of prisoner Sanders, #193320 for Substance Abuse. On 10/30/96 at the Carson City Correctional Facility and on 9/1/95 at the Huron Valley Men's Facility during cell shakedowns containers filled with a fermenting liquid determine to be prison made alcohol were found in his area of control. He was found guilty at his hearings held on 11/12/96 and 9/21/95 respectively. **This case may be reviewed in six months.**

By copy of this memo to Warden Straub and RPA Quarles this shall serve as their notification of this action. Warden Straub shall ensure that the prisoner is notified of this decision and that a copy of this memo is placed in the prisoner's record office and counselor files.

BM:pb
cc: RPA Quarles
Warden Straub, JCF

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: January 20, 2000

TO: Denise Quarles, Regional Prison Administrator
Region III

FROM: Dennis M. Straub, Warden
G. Robert Cotton Correctional Facility

SUBJECT: Denial of All Visiting Privileges – Prisoner **Sanders #193320, Lock J-82**

This is a request for prisoner **Sander #193320** to be placed on "Denial of All Visiting Privileges."

Per PD-05.03.140, Prisoner Visiting, under Section BBB, "the Director may permanently restrict all visits for a prisoner who is convicted or found guilty of…two or more violations of the major misconduct charge of substance abuse." I am forwarding this information to you to be processed up through the Director's Office for his consideration.

On 11/26/96, prisoner **Sanders** was found guilty of a major misconduct written on 10/30/96 for Substance Abuse (034).

On 9/21/95, prisoner **Sanders** was found guilty of a major misconduct written on 9/1/95 for Substance Abuse (034).

On 7/12/95, prisoner **Sanders** was found guilty of a major misconduct written on 6/21/95 for Substance Abuse (034).

Please find copies of the Major Misconduct Reports, as well as the Hearing Reports for prisoner **Sanders #193320** on the above-referenced violations.

If I can be of any further assistance, please advise.

DMS:jmg
Attachments

cc: Record Office File
Counselor File
Deputy Warden Palmer
File

[Handwritten] 1/24
Dan Bolden –
I am not in support of this request. The most recent ticket was over 3 years ago.

DQuarles

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: December 15, 1999

TO: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

FROM: Bill Martin, Director

SUBJECT: Weaver, #146159

Effectively immediately, prisoner Weaver shall not be permitted any visits as you have recommended. R 791.6609(11) gives the authority to restrict all visits. It should be noted that prisoners who are subject to a total restriction must still be allowed visits with attorneys and qualified clergy as outlined in PD 05.03.140 – "Prisoner Visiting."

This decision is based on recent major misconduct guilty findings of prisoner Weaver, #146159 for Substance Abuse. On 9/20/99 at the Egeler Correctional Facility restricted meds that he was not authorized to possess were found in his cell. He was found guilty at his hearing on 10/4/99. On 6/24/96 at the Saginaw Correctional Facility marijuana was found in his cell. He was found guilty at his hearing on 7/5/96.

By copy of this memo to Warden Phillips and RPA Quarles this shall serve as their notification of this action. Warden Phillips shall ensure that the prisoner is notified of this

decision and that a copy of this memo is placed in the prisoner's record office and counselor files.

Bill Martin, Director

BM:pb

cc: RPA Quarles
Warden Phillips, SMN

MICHIGAN DEPARTMENT OF CORRECTIONS

4835-4241 9/91
CSJ-240 B

MAJOR MISCONDUCT HEARING REPORT

Prisoner Number	Prisoner Name	Institution	Violation Date
146159	Weaver	SMN	9/20/99

Charge: Substance Abuse 042

If charge changed by H. O.:

Plea [X] GUILTY [ ] NOT GUILTY

Major Misconduct Report Read To and Discussed with Prisoner (Check if Applies) [X]

Hearing Investigation Read To and Discussed with Prisoner =HI (Check if Applies) [X]

No Hearing Investigation Requested [ ] (Check if Applies)

EVIDENCE / STATEMENTS IN ADDITION TO MISCONDUCT REPORT:

Mr. Weaver said he was guilty of the charge. Mr. Weaver said the medication was his. He wasgiven thepill on med line and didnot take it. Mr. Weaver said he did not buy this off the yard. He also said he belived it was an antidepressant. The photograph of the evidance was reviewed.

Mr. Weaver's statement at the hearing was substantially the same as his statmeent at the hearing. The pharmacist bverified thiswasa restrictedmedication prescribed for mr. Weaver.

Mr. Weaver had no further comment.

REASONS FOR FINDING:

The hearingofficer finds the medication at issue is a restricted medication called XXXXXXXXXXXXXXXX Aratax. The mediation is to be taken when dispensedat the pill line. It is not to be stored, saved or stockpiled in the prisoner's cell. Mr. Weaver admits he had possesson and control of the restricted medication. Thereofr,e he isfound guilty of thecharge of Substance ABuse. Since this is a restricted medication, it iswithin thecategory of the charge of Substance ABuse.

The pill is illegal contraband and assuch it is to bedisposed of by the Michigan State Police.

FINDINGS:

				CMIS Code
CHARGE NO. 1	[X] GUILTY	[ ] NOT GUILTY	[ ] DISMISSED	042
CHARGE NO. 2	[ ] GUILTY	[ ] NOT GUILTY	[ ] DISMISSED	
CHARGE NO. 3	[ ] GUILTY	[ ] NOT GUILTY	[ ] DISMISSED	
CHARGE NO. 4	[ ] GUILTY	[ ] NOT GUILTY	[ ] DISMISSED	

DISPOSITION(S):

_____ Days of Detention 3 Days Toplock

Begins 10/10/99 Ends 10/XX 13/99

_____ Days Loss Privileges _____ Credit Days

Begins _____ Ends _____

$_____ Restitution _____ Hours of Extra Duty

HEARING OFFICER'S NAME & CMIS CODE (Typed): J. Ricci 016

HEARING OFFICER'S SIGNATURE: J Ricci

Major Misconduct Hearing Report personally handed to Prisoner by Hearing Officer this date (check if applies) [X]

Major Misconduct Hearing Report Given to Staff Member by Hearing Officer for Delivery to Prisoner this date (check if applies) [ ]

Date of Hearing 10/4/99

(Name & CLock No. of Staff Member)

DISTRIBUTION: White - Institution File; Green - Central Office; Canary - Prisoner; Pink - Counselor; Goldenrod - Hearing Investigator

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MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: May 11, 2000

TO: Warden Renico
Mid-Michigan Correctional Facility

FROM: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

SUBJECT: Request for Reinstatement of Visiting Privileges – Dudley, #158018

I am in receipt of your correspondence regarding reinstatement of visiting privileges for the above referenced prisoner.

On 2/23/98 prisoner Dudley's visits were restricted for guilty findings of substance abuse (non-alcohol) on 12/19/96 and 11/6/97. Since the restriction he has received various misconducts; one for substance abuse on 1/21/99.

I am not forwarding this request to the Director for approval at this time. Further demonstration of major misconduct free behavior by this prisoner is requested before I will seek reinstatement of his visiting privileges.

Please ensure the prisoner is notified of this decision.

DLB:pb

cc: RPA Bach

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: March 31, 2000

TO: Dan L. Bolden, Deputy Director
Correctional Facilities Administration

FROM: Jo Ann Bach, Regional Prison Administrator
Correctional Facilities Administration –
Region II

SUBJECT: Request for Reinstatement of Visiting Privileges

Attached, for your review and consideration, is a request for the reinstatement of visiting privileges for Prisoner Dudley #158018, STF. Please note that due to Prisoner Dudley's misconduct history, Warden Renico is not recommending restoration of his visits. Thank you.

JAB:mmk

Attachment

Do Not Reinstate
[Handwritten]

MICHIGAN DEPARTMENT OF CORRECTIONS

MEMORANDUM

DATE: March 17, 2000

TO: Jo Ann Bach, Regional Prison Administrator
Correctional Facilities Administration

FROM: Paul H. Renico, Warden
St. Louis & Mid-Michigan Correctional Facilities

SUBJECT: Request for Reinstatement of Visiting Privileges – **Dudley #158018 (STF)**

Attached please find a request from the above-listed prisoner for reinstatement of his visiting privileges. Prisoner Dudley's visits were restricted by the Director effective 2/23/98.

This prisoner's visits were restricted due to receiving two Substance Abuse misconducts. On 12/7/96 and 10/30/97 this prisoner submitted urine samples for routine drug testing that were both positive for marijuana. He was found guilty of both misconducts at his hearings held on 12/19/96 and 11/6/97 respectively.

Since the 2/23/98 restriction, prisoner Dudley has received the following misconducts: 7/10/98, Insolence; 1/21/99, Substance Abuse (prescription pills); 9/8/99, Out of Place; 10/28/99, Out of Place and 11/4/99, Out of Place.

To prisoner Dudley's credit, since the restriction, he has completed the AA Twelve Step Program, the Phase II

Substance Abuse Program and the Custodial Maintenance Technology Program. Prisoner Dudley has received excellent work reports. On 3/3/00, prisoner Dudley was granted a parole with a fixed date of 6/29/00. Although prisoner Dudley has shown some positive institutional behavior, due to the above misconducts, it is my recommendation that his visits not be restored at this time.

Please contact me if you have any questions regarding this matter.

/S/
Paul H. Renico, Warden

PHR:blc
Attachment
cc: RO File/Counselor File/Prisoner/File

Date: March 13, 2000

To: Warden Renico

From: Gregory Dudley 158018 D-3

RECEIVED

MAR 16 2000

R.E. REQUEST FOR VISITATION RESTORATION

Dear: Warden Renico,

Pursuant to P.D. 05.03.140 page # 11. FFF.2 and GGG1, respectively, am requesting that your office review and reconsider restoring my visitation status.

In 10/30/97 at Camp Kechler, I recieved a 0.39 Substance Abuse misconduct, and had my visitation rights terminated. It was at this time in my life that due to serious personal problems resulting from issues at home that I allowed myself to get "Caught Up" with making pot. Ultimately I realized that I was only hurting myself and my mother by indulging in this type of behavior, and I have refrained from this behavior ever since.

Sir, it has been several years since I have been able to see my mother which has placed a genuine burden on my mother. In addition, in view of being granted a recent parole it is vital to secure contact & foster communication in order to facilitate strategies for making transition upon post-prison release.

I therefore sincerely requesting that You take under consideration my situation please restore my Visitation status. Thanking You in Advance,

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346a -

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHELLE BAZZETTA, STACY BARKER, TONI BUNTON, DEBRA KING, SHANTE ALLEN, ADRIENNE BRONAUGH, ALESIA BUTLER, TAMARA PRUDE, SUSAN FAIR, VALERIE BUNTON and ARTURO ZAVALA, through his Next Friend VALERIE BUNTON, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

KENNETH McGINNIS, DIRECTOR OF MICHIGAN DEPARTMENT OF CORRECTIONS; DAN BOLDEN, DEPUTY DIRECTOR OF THE CORRECTIONAL FACILITIES, MICHIGAN DEPARTMENT OF CORRECTIONS, MARJORIE VAN OCHTEN, ADMINISTRATOR OF THE OFFICE OF POLICY AND HEARINGS OF THE MICHIGAN DEPARTMENT OF CORRECTIONS; MICHIGAN DEPARTMENT OF CORRECTIONS,

Defendants.

Hon. Nancy G. Edmunds

Case No: 95-CV-73540-DT

PLAINTIFFS' CORRECTED PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiffs' Proposed Findings of Fact

I. VISITING RULES

A. Visits Between Prisoners and Loved Ones, Including Minor Children and Former Prisoners, Are Critical to the Well-being of Prisoners and Non-prisoners, the Maintenance of Family Ties, and the Successful Reintegration of the Prisoner into the Community upon Release.

1. Defendants' visiting policy used to expressly state (and many facilities' operating procedures still do) that visits are important to rehabilitation and post-release adjustment and should be encouraged. **Van Ochten**, TR Vol. 1, pp. 64-65; **Bolden**, TR Vol. 3, pp. 32-33; **Yukins**, TR Vol. 6, pp. 50-51; **Pls.' Exh. 55**

2. Visitation is so important that Defendants' current policy permits visits on a non-contact basis not only for those prisoners who are confined at the highest security levels because of their behavior but to those classified to administrative segregation and even those serving a disciplinary sanction in punitive segregation. **Pls.' Exh. 2**, PD 05.03.140, p. 6, ¶ DD

3. Research shows that visiting is the factor that correlates most strongly with a prisoner's success after release. **Kupers**, TR Vol. 6, pp. 131-32 (classic Holt and Miller study, showing prisoners who have three regular visitors are one-sixth as likely to return to prison in a year, is one example among many), p. 134

4. Visiting is necessary to restore family unity and helps all prisoners, including those serving life sentences, to function as family members. **Kupers**, TR Vol. 6, p. 133, 135

5. Since siblings have a special bond in the family unit that connects them throughout life, and older siblings often fill a pseudo-parental role for younger ones, denying visits to siblings is very cruel. **Kupers**, TR Vol. 6, pp. 138-39

6. The need for visits with nieces and nephews where the prisoner is a parent surrogate is similar to the need for visits between children and their parents. **Kupers**, TR. Vo. 6, p. 154

B. Prior to 1995, Defendants' Rules, Policies and Practices Fostered Visiting by Family Members, Including Minors, and Friends.

7. The former visiting policy expressly said visits should be encouraged absent a security concern. Anyone could visit who was not affirmatively restricted, including minors. **Van Ochten**, TR Vol. 1, p. 64; **Bolden**, TR Vol. 3, pp. 48-49; **Yukins**, TR Vol. 6, p. 44; **Pls.' Exh. 4**, p. 10

8. Incarcerated mothers were able to give written permission to responsible adults to have their children brought to visit them. **Dixson**, TR Vol. 7, p. 122-23; **Yukins**, TR Vol 6, p. 44; **Pls.' Exh. 4**, p. 10

9. Former prisoners were allowed to visit, subject to the warden's approval. **Van Ochten**, Vol. 1, pp. 172-73 (warden had discretion to order a LEIN check); **Trudeau**, TR Vol. 4, pp. 93, 100

10. Each facility set its own visiting hours, to account for its own location and circumstances. Facilities also set their own rules as to how many people could visit a prisoner at one time. **Van Ochten**, TR Vol. 1, p. 70; **Mintzes**, TR Vol. 5, p. 107; **Bolden**, TR Vol. 4, p. 62

11. Visiting used to be permitted in outdoor visiting areas that had picnic tables or chairs on the grass. Small children were permitted to play with each other in designated play areas. **Smith**, TR Vol. 2, p. 149 - 50; **Brewer**, TR Vol. 2, p. 69; **Staton**, TR Vol. 4, p. 130; **Pls.' Exh**. 4, p. 11; **Shier**, TR Vol. 2, p. 115

12. In 1994, there were approximately 800,000 visits to Michigan prisons. **Bolden**, TR Vol. 3, p. 39

C. In 1995, Defendants Significantly Changed Their Visiting Rules, Policies and Practices in Ways That Prohibited, Reduced, and Discouraged Visits.

13. In April 1995, Deputy Director Bolden, at former Director McGinnis' request, issued a memorandum standardizing various visiting practices at all Defendants' facilities. **Bolden**, TR Vol. 3, p. 92; **Pls.' Exh**. 4

14. The standardization memo was intended to reduce volume by setting, according to security level, the maximum number of visits each prisoner can have per month, the number of weekend visits permitted, the days and hours when visits will be allowed, and the total number of people who can visit at one time. Morning visiting hours were eliminated at all Level I, II, and III facilities for weekdays and for holidays that fall on weekdays. Visiting at Level 5 is limited to 10:30 a.m.-2:30 p.m. each day. **Van Ochten**, TR Vol. 1, p. 65; **Pls.' Exh**. 4, pp. 1-2, 3-5

15. The standardization memo also addressed visiting conditions.

    a. Because children over age 2 must stay in assigned seats or at assigned table and no "cross-visiting" is allowed, the opportunity for children to play together was eliminated. **Pls.' Exh. 4**, p. 2

    b. Visitors may leave the visiting room to use a restroom only once. An additional trip to the restroom terminates the visit and requires a return to the visiting room to be counted as a second visit. There is no provision for prisoners to use a restroom at all without terminating the visit. **Pls.' Exh. 4**, pp. 2-3

16. The limitation to two weekend visits per prisoner per month, the elimination of morning visiting hours, and the restrictions on restroom usage had a particularly severe impact on visits to Upper Peninsula prisons where more than 20% of the population is located and most visits occur on weekends because of the distance. **Pls.' Exh**. 9; **Pls.' Exh. 13**, p. 3, ¶ 6; **Bolden**, TR Vol. 3, pp. 89-91

17. Effective August 25, 1995, Defendants amended administrative rules 791.6607 and 6609 to radically redefine who can visit prisoners and under what circumstances. The rules were initially implemented through a director's office memorandum. A policy directive was finally issued on January 12, 1998. **Pls.' Exh. 1** (administrative rules); **Pls.' Exh. 2** (PD 5.03.140); **Pls.' Exh. 5** (DOM 1995-58)

18. R 791.6609(2) requires all visitors (except attorneys, clergy, religious volunteer and public officials) to be on the prisoner's approved visiting list, which may consist of all the prisoner's "immediate family members" and no more than 10 other people. **Pls.' Exh. 1**

19. "Immediate family member" is defined in R 791.6609(9) as any of the following persons: grandparent, parent, stepparent, spouse, mother-in-law or father-in-law, child, stepchild, grandchild, sibling, stepbrother or stepsister, aunts and uncles if verification is provided that they served as surrogate parents.

    Excluded from the definition are sister-in-law and brother-in-law, son-in-law and daughter-in-law, most aunts and uncles, first cousins, and nieces and nephews, even if the prisoner served as the person's surrogate parent. **Pls.' Exh. 1**

20. Under 791.6609(2)(b) no person less than 18 years of age can be on an approved visitor list unless he or she is the child, stepchild, or grandchild of the prisoner, or an emancipated minor. **Pls.' Exh. 1**

21. Under R 791.6609(5), a child who is on an approved list may visit his or her parent, stepparent, or grandparent only if accompanied by an adult immediate family member or legal guardian. **Pls.' Exh. 1**

22. Under R 791.6609(6)(a), a child may not visit his or her biological parent if parental rights have been terminated, regardless of the reason. **Pls.' Exh. 1**

23. Under R 791.6609(7) and (8), a former prisoner who is not an immediate family member, clergy, legal counsel, religious volunteer, or public official cannot visit a prisoner. **Pls.' Exh. 1**

24. At the same time they changed the visiting rules, Defendants also discontinued use of the outdoor visiting areas. **Bolden**, TR Vol. 3, p. 68

25. Effective January 18, 1996, Defendants amended their search policy to require more intrusive searches of visitors, including visual inspection of the visitor's mouth, ears, and nasal cavity, and removal of shoes and socks to allow inspection of the soles of the visitor's feet. A visitor wearing a prosthesis, brace or cast that cannot be removed for search must be limited to non-contact visits. **Pls.' Exh. 2** (PD 04.04.110, p. 2, ¶ A.5.c, p. 8, ¶ FF. 2, p. 9, ¶ HH

D. The Rules That Prohibit Visiting by Most Children under 18, Including Siblings, Nieces, Nephews And, in Some Cases, the Prisoner's Biological Children, Were Adopted Thoughtlessly, Arbitrarily, and Without Reasonable Consideration of Their Impact.

26. Although Defendants classify siblings as "immediate family" and Defendants' purpose was to exclude minors "who did not have a direct relationship" to a prisoner or who did not have "a real purpose" in visiting, the executive policy team did not specifically discuss excluding siblings and their omission from the list of minors who can visit was initially inadvertent. **McGinnis**, TR Vol. 8, pp. 22, 41; **Pls.' Exh. 56** (Public Statement of RPA Denise Quarles)

27. There was no specific penological rationale for excluding minor siblings other than Defendants' general concern that children can be disruptive and prison is not an appropriate place for them. Defendants did not think about the impact of excluding minor siblings and did not realize so many people would be affected. **Van Ochten**, TR vol. 1, pp. 55-56, 57-58

28. Despite public opposition to omitting nieces, nephews, aunts and uncles from the definition of immediate family, and despite the urging of the Administrator of the Office

of Policy and Hearings, Defendants simply refused to add these relatives without explanation. **Pls.' Exh. 14**, p. 2, ¶ (1); **Pls.' Exh. 15**, p. 4, ¶ (3); **Pls.' Exh. 13**, ¶ 3; **Withrow**, TR Vol. 8, p. 150 (warden's concern on this point never answered)

29. Although the executive policy team did discuss excluding nieces and nephews, it did not discuss allowing visits by those nieces and nephews for whom the prisoner served as a surrogate parent. **McGinnis**, TR Vol. 8, p. 41; **Van Ochten**, TR Vol. 1, p. 53

30. The recommendation of the Administrator of the Office of Policy and Hearings that all children who are immediate family members be allowed to visit was rejected on the rationale that prisoner is not "a day care center". **Van Ochten**, TR Vol. 1, p. 54; **Pls.' Exh. 14**, p. 3, ¶ (5)

31. Although they recognized the importance of children being able to see their parents, Defendants did not put much thought into requiring a legal guardian, as opposed to an adult authorized by the prisoner, when the person bringing the child to visit is not an immediate family member. Defendants did not discuss the fact that requiring the responsible adult to be a legal guardian would prevent social workers from bringing children in foster care to visit their incarcerated parents. **Van Ochten**, TR Vol. 1, pp. 58-60, 87, 160

32. When Defendants' promulgated these rules, they did not consider the circumstances of open adoptions, where prisoner parents terminate their legal rights voluntarily for the good of their children on the understanding they will maintain a relationship with the children, or any other circumstance where termination was not based on abuse or neglect. **Van Ochten**, TR Vol. 1, p. 62-63;

McGinnis, TR Vol. 8, pp. 36, 37; **Pls.' Exh. 13**, ¶ 2; **Withrow**, TR Vol. 8, pp. 149-50 (warden's concern on this point never answered)

33. The rules were promulgated with the situation common to male prisoners in mind, that is, where the non-prisoner mother has custody and brings the children to visit, and defendants did not consider the different circumstances common to women prisoners or the implications of the proposed rules for them. **Van Ochten**, TR Vol. 1, p. 84; **McGinnis**, TR Vol. 8, p. 28

34. Defendants selected the age of 18 as the cut-off for excluding minors from visiting not for any particular reason but simply because it was an easy choice. **Van Ochten**, TR Vol. 1, p. 80

E. The New Restrictions on Minor Visitors Have Had Enormous Negative Consequences for Prisoners and Their Families.

35. Siblings, nieces and nephews under 18 who had been visiting without incident could no longer see their incarcerated brothers, sisters, aunts and uncles. **Shier**, TR Vol. 2, pp. 113, 116; **Spencer**, TR Vol. 2, pp. 135, 138; **Yukins**, TR Vol. 6, p. 56; **Carter**, TR Vol. 2, pp. 168, 170-71; **Smith**, TR Vol. 2, pp. 149, 152-53; **Brewer**, TR Vol. 2, pp. 69-73; **Shanks**, TR Vol. 2, pp. 124-25, 127

36. Siblings under 18 are barred from visiting even if they are older than the prisoner. Siblings under 18 must be left behind when other family members, including siblings over 18, go to visit the prisoner. **Yukins**, TR Vol. 6, p. 57; **Shier**, TR Vol. 2, p. 118; **Hendrick**, TR Vol. 2, p. 94; **Carter**, TR Vol. 4, pp. 174-75; **Benejam**, TR Vol. 2, pp. 31, 44-45;

37. The exclusion of siblings under 18 causes some brothers and sisters to be separated for many years. **Hendricks**, TR Vol. 2, pp. 99-100 (sister will not have seen brother for 3 ½ years when brother is released); **Benejam**, TR Vol. 2, p. 29 (sisters who were aged 5 and 7 when teenaged brother began 20 year minimum term will not see him for 13 and 11 years, respectively)

38. Minor nephews and nieces are not permitted to see incarcerated aunts and uncles to whom they are close, even if the prisoner served as a surrogate parent. **Carter**, TR Vol. 2, pp. 168-69, 172; **Shanks**, TR Vol. 2, p. 126; **Kupers**, TR Vol. 6, p. 154; *See also*, **Brewer**, TR Vol. 7, pp. 110, 115 (prisoner could no longer see his son's half-sister who he was caring for before entering prison) and **Johnson**, TR Vol. 4, p. 174 (prisoner raised by his aunt had a lot of young cousins that visited him before the rules changed)

39. The prohibition on minor nieces and nephews makes it difficult for the prisoner's adult siblings to visit because they cannot bring their own children, or for the prisoners own parents to visit if they cannot bring other grandchildren for whom they are caring, and this may even prevent the prisoner from seeing his or her own children if these relatives are caring for the prisoner's children as well. **Shanks**, TR Vol. 2, p. 128; **Pls.' Exh. 14**, p. 2, ¶ 1 and p. 3, ¶ 5

40. Children born after the prisoner's incarceration have no way to get to know the prisoner. **Brewer**, TR Vol. 2, p. 78; **Benejam**, TR Vol. 2, p. 29

41. Prisoners and their biological children have been stopped from seeing each other because the prisoner voluntarily terminated parental rights as part of an open adoption. **Scarnecchia**, TR Vol. 1, p. 197; **Kupers**, TR Vol. 6, pp. 147-48; **Barker**, TR Vol. 7, pp. 75-77; **Ross**, TR Vol. 3, pp. 8-9

42. Prisoners are unable to see their own children if the responsible adult they authorize to bring the child is not defined by Defendants as immediate family and is not the child's legal guardian, e.g., where the child's father is not married to the incarcerated mother and is not the guardian. **Staton**, TR Vol. 4, p. 148; **Van Ochten**, TR Vol. 1, pp. 83-84

43. A prisoner's 16 year old son, who possesses a driver's license and a vehicle, cannot visit his own mother in prison unless accompanied by an immediate family member who is at least 18, or a legal guardian. **Shanks**, TR Vol. 2, pp. 129-30

F. Defendants' Definition of "Immediate Family" Is So Arbitrary and Unrealistic, and the Prohibition on Visits Whenever Parental Rights Have Been Terminated Is So Overbroad, They Cannot Justify Distinctions about Who Can Visit and Who Can Bring the Prisoner's Children to Visit.

44. Individuals subjectively define immediate family as the relatives to whom they feel closest. **Kupers**, TR Vol. 6, p. 136; *See also* **Mintzes**, TR Vol. 5, p. 129 (what matters is not the legal status of a prisoner-child relationship but the importance of the relationship to the people involved)

45. It is not appropriate for Defendants to identify which family members under 18 an inmate can see because they cannot know who it is important for that inmate to see or for whom it is important to see that inmate. **Mintzes**, TR Vol. 5, p. 109

46. Defendants' Euro-centric definition of immediate family excludes many people who would be defined as family members in the African-American community, including aunts, uncles, cousins, godchildren, half-siblings, foster children, and the children of a common law spouse. **Kupers**, TR Vol. 6, pp. 136-37, 145-46

47. Defendants' definition affects the ability of commonly accepted caregivers to bring prisoners' children to visit, e.g., great aunts and uncles, and sisters and brothers-in-law. **Scarnecchia**, TR Vol. 1, p. 198; **Pls.' Exh. 14**, p. 2, ¶ 1

48. In the challenged visiting rules, Defendants use the very narrow definition of immediate family that applies to sick bed and funeral visits by prisoners, even though the security concerns that arise when prisoners leave the facility are not implicated when visitors come to the facility. **Pls.' Exh 14**, p. 2, ¶ 2

49. For the purpose of defining when corrections officers may not supervise other officers, Defendants define immediate family to include: parents, step-parents, grandparents, children, grandchildren, step-children, spouses, siblings, uncles, aunts, nieces, nephews, and cousins. **Bolden**, TR Vol. 3, pp. 70-71

50. Opposition to defining nieces and nephews as immediate family based on possible problems with verification is illogical because a) the verification process is no more complex than it is for parents-in-law or aunts and uncles who parented the prisoner, both of which Defendants include in the definition and b) since the prisoner's siblings are listed in the presentence report, verification would just require them to produce their children's birth certificates. **Bolden**, TR Vol. 3, pp. 77-81; **Van Ochten**, TR Vol. 1, pp. 52-53; **Mintzes**, TR Vol. 5, pp. 128-29;

Pls Exh. 2A, p. 2, ¶ I

51. Where a prisoner voluntarily terminates parental rights for the protection of the child and an agreement for continued visitation is made because that is in the child's best interest, a strong parental attachment still exists even though the prisoner is no longer the child's legal parent. **Kupers**, TR Vol. 6, pp. 147-48; **Scarnecchia**, TR Vol. 2, pp. 195-96; **Barker**, TR Vol. 7, pp. 71-77

G. Defendants' Arbitrary Rule Regarding Who Can Bring a Prisoner's Own Children to Visit Not Only Serves No Legitimate Penological Interest, it Actively Conflicts with State Law and Policy Designed to Unify Families.

52. Under Michigan law, unless it is shown to be harmful to the child, children who are placed by the probate court in foster care or with a relative must be permitted to visit their parents regularly and frequently, at intervals no less than once every seven days, in order to provide continuity until the family is reunified. **Scarnecchia**, TR Vol. 1, pp. 192-93; **MCL 712(A).18(F)(3)(e)**

53. Clear Michigan public policy regarding children who are separated from their parents, as expressed, for instance, in guardianship and child custody statutes, strongly favors visitation unless it would be dangerous for the children. **Scarnecchia**, TR Vol. 1, p. 197

54. The "best interest of the child" standard used to determine visitation is about the welfare of the child, not the rights of the parent. **Scarnecchia**, TR Vol. 1, pp. 197-98

55. Defendants' rule preventing prisoners' children from visiting if not accompanied by an immediate family

member, as defined by Defendants, or a legal guardian, undermines Michigan law and policy by eliminating such common categories of caregivers as great aunts and uncles, brothers and sisters-in-law, foster parents, and foster care workers. **Scarnecchia**, TR Vol. 1, pp. 198-99

56. Awarding guardianship is a complicated, expensive legal procedure that poses the risk that the prisoner's parental rights will ultimately be terminated. Under Michigan law, a prisoner can execute a power of attorney granting another person authority to bring the prisoner's child to visit without any expense, risk, or judicial oversight. **Scarnecchia**, TR Vol. 1, pp. 190-91; **MCL 700.5103**

57. Where the prisoner's parental rights have not been involuntarily terminated and there is no basis for finding potential harm to the child, Defendants' only legitimate interest in restricting who can bring a child to visit an incarcerated parent is to ensure the person is a responsible adult who is authorized by the parent and able to control the child's behavior. **Van Ochten**, Vol. 1, p. 160

58. Defendants' rationale for requiring proof of legal guardianship as opposed to a power of attorney is that a power of attorney may be forged and front desk officers processing visits may have difficulty determining their legitimacy. **Van Ochten**, Vol. 1, p. 85; **McGinnis**, Vol. 8, p. 36

59. Defendants' concerns are baseless because:

a. any adult accompanying a child would have had to submit a visiting application and been placed on a pre-approved list so there would be no decision for the desk officer to make; **Van Ochten**, TR Vol. 1, p. 92;

McGinnis, TR Vol. 8, p. 42

b. prisoners are no longer allowed to serve as notaries so signatures on powers of attorney would be notarized by Defendants' employees; **Van Ochten**, TR Vol. 1, p. 91

c. when Defendants are notified of a court order prohibiting visitation with an incarcerated parent, the minor child is not allowed to visit. **Bolden**, TR Vol. 3, p. 81; **Pls.' Exh. 2A,** p. 2, ¶ J.4.a

60. Defendants' concerns are unsupported by any evidence.

a. In their years of experience, neither Plaintiffs' expert nor the Administrator of the Office of Policy and Hearings knew of any situation in which a document such as power of attorney had been forged or a claim of forgery related to visitation by a prisoner's minor child had been made. **Scarnecchia,** TR Vol. 1, p. 192; **Van Ochten**, TR Vol. 1., p. 92

b. While it is possible that a child could be brought to see an incarcerated parent against the wishes of the non-prisoner parent, that would not be prevented by Defendants' rule because it could be done by an immediate family member or legal guardian, and there was no evidence of such incidents in any event. **Scarnecchia**, TR Vol. 1, p. 192, Vol. 2, p. 26; **Van Ochten**, TR Vol. 1, p. 86;

61. Defendants' rule limiting who can bring minor children to visit is not based on any security concern and is inappropriate and arbitrary. Van Ochten, TR Vol. 1, p. 85; Mintzes, TR Vol. 6, p. 4

H. Prohibiting Even Non-contact Visits by Minor Siblings, Nieces, and Nephews, and by Former Prisoners Who Are Not Immediate Family Has No Valid, Rational Connection to Defendants' Interest in Controlling the Overall Volume of Visits.

62. Even before 1995, crowded visiting rooms and waiting areas were only a problem at selected facilities. **Pls.' Exhs. 41, 42, 43**; **Creekmore**, TR Vol. 5, pp. 37-42 (in April 1995, at almost all facilities the average number of visits per prisoner per month was less than two, at many the average was below one, and at just the 15 highest volume facilities the average was 2.4); **Van Ochten**, TR Vol. 1, p. 72 (visiting volume depends on location and size of facility; were higher volumes at facilities southeast quadrant of state while visiting rooms at Upper Peninsula facilities and places like Standish were practically empty all the time); **Yukins**, TR Vol. 6, p. 52 (Scott facility has adequate visiting space); **Carter**, TR Vol. 2, p. 165 (prisoner never had a visit terminated while at Ryan where visiting room is very large); **Benejam**, TR Vol. 2, pp. 31-34 (mother says visiting space was never crowded at Carson City and Brooks and was very empty at Chippewa in Upper Peninsula)

63. According to Defendants' statistics regarding the proportion of visits that had to be terminated, visiting volume was not a significant problem. **Bolden**, TR Vol. 3, p. 29 (the number of visits terminated for lack of space is a measure of whether visiting rooms are overcrowded); **Van Ochten**, TR Vol. 1, p. 173 (Defendants had no significant problem with terminating visits before the rules changed); **Yukins**, TR Vol. 6, p. 52 (Scott Facility has rarely had to terminate visits for space); **Withrow**, TR Vol. 8, p. 152 (no visits were terminated for lack of space at the Reformatory from May 1994-May 1997); **Pls.' Exh. 45**; **Creekmore**, TR Vol. 5, pp. 37-42 (before

April 1995, the percentage of all visits that had to be terminated for space was .71; while some individual facilities approached 3%, most common termination rate per facility was zero and no group of facilities at any security level averaged more than one percent); **Mintzes**, TR Vol. 5, p. 111 (termination rate of 1-2% at some institutions does not suggest a visitation problem needing a system-wide solution)

64. Although Defendants purport to follow American Correctional Association standards that require prisons to provide sufficient visiting space, to the extent that an increased volume of visits burdened some facilities' visiting rooms and waiting areas, the problem resulted primarily from Defendants' decision to double the prisoner population through double-bunking cells without increasing the space available for visits. **Pls.' Exh. 3** (ACA Stnds., Visiting 3-4149); **Van Ochten**, TR Vol. 1, pp. 72-74; **Bolden**, TR Vol. 3, pp. 25-27, 31-32; **McGinnis**, TR Vol. 8, p. 50; **Jones**, TR Vol. 9, p. 39

a. Defendants also chose to require wholly separate visiting by custody level at multi-level facilities, thereby limiting the time when the visiting room could be used by each level. **Van Ochten**, TR Vol. 1, p. 73 (security levels not mixed in visiting rooms); **Bolden**, TR Vol. 3, pp. 86-88 (current conversion of multi-level facilities to single level will allow Defendants to provide more visiting hours); **Carter**, TR Vol. 2, p. 167 (separate visiting rooms at Ryan for Levels II and IV were closed causing alternate day visiting for each level);

b. Defendants also chose to reduce the visiting space available in warm weather by closing outside visiting areas. **Bolden**, TR Vol. 3, p. 68

c. The solution to insufficient visiting space is to increase the available space, not limit the visitors. **Mintzes**, TR Vol. 5, pp. 105-06

65. Defendants limit the number of people in visiting rooms to those who can be reasonably supervised simply by controlling the number of chairs in the room. **Bolden**, TR Vol. 4, pp. 70-71

66. Defendants have various methods available to control the total volume of people coming to visit that do not involve selectively excluding particular categories of people. These include limiting the number of people who can visit a prisoner at one time, the number of people who can be on a prisoner's visiting list, and the number of visits a prisoner can have within a given time period or on particular days of the week. Defendants can also increase and decrease visiting hours. Defendants employed all these methods in the April 1995 standardization memo and the August 1995 administrative rule that limits prisoners to a pre-approved visitor list with no more than 10 non-immediate family members. **Van Ochten**, TR Vol. 1, pp. 53, 65-66, 75-76; **McGinnis**, TR Vol. 8, p. 49; **Pls.' Exh. 1** (R 791.6609(2)); **Pls.' Exh. 5** (Standardization Memo);

67. Defendants' goal in implementing the April and August 1995 changes was to reduce the total volume of visits by 10-15%. **Bolden**, TR Vol. 3, p. 83

68. In fact, by October 1995, total visits had been reduced by roughly 50%, even though implementation of the rule barring visits by minors had been delayed by court order. **Pls.' Exh. 43**; **Creekmore**, TR Vol. 5, pp. 42-43 (at 15 highest volume facilities, ratio of visits to inmates dropped precipitously from April to October 1995; ratio in April 1998 is half what it was in April 1995);

McGinnis, TR Vol. 8, p. 11 (visits at Saginaw Facility cut in half from 1995-96); p. 46 (Defendants would not have restricted visits by minors in violation of TRO); **Mintzes**, TR Vol. 5, p. 138 (restricting minor visitors appears to have been unnecessary to accomplish original goal)

69. Defendants estimate that prior to the 1995 rule changes, 10-15% of visitors were minors. Defendants have no idea how many of these minors who visited prior to 1995 were siblings, nieces, and nephews, as opposed to girlfriends' children or others unrelated to the prisoner. **Bolden**, TR Vol. 3, pp. 47-49; **McGinnis**, TR Vol. 8, p. 40; **Yukins**, TR Vol. 6, p. 117

70. Defendants have made no attempt to measure how much the 1995 changes reduced the number of visitors who are children. **Bolden**, TR Vol. 3, p. 45, Vol. 4, p. 62; **McGinnis**, TR Vol. 8, p. 43; **Van Ochten**, TR Vol. 1, pp. 56, 58, 75

71. Defendants have no idea how many minor siblings, nieces, and nephews would actually visit non-contact if permitted to do so, but by their own calculations the total volume would still be well below their 1995 goal. **Bolden**, TR Vol. 3, pp. 71-72; **Yukins**, TR Vol. 6, p. 117

72. Since siblings are defined as immediate family members, and there are no limitations on the number of immediate family members who can be on a prisoner's approved visiting list, there is no logical justification for excluding only siblings under 18 as means of controlling the volume of visits. **Pls.' Exh. 1** (R. 791.6609(9)(i.))

73. In fact minor siblings were not barred because of their perceived impact on total volume and Defendants were actually surprised at how many prisoners were affected

by the ban. **Bolden**, TR Vol. 3, p. 33 (most important concerns with children were smuggling, physical injury and sexual assault); **Van Ochten**, TR Vol. 1, pp. 55-58; **McGinnis**, TR Vol. 8, p. 22

74. Since nieces and nephews over 18 can visit a prisoner so long as they fit within the prisoner's approved list of 10 non-immediate family members, there is no logical justification for excluding nieces and nephews under 18, who would also have to fit within the list, as a means of controlling the volume of visits. **Pls.' Exh. 1** (R 791.6609(2)); **McGinnis**, TR Vol. 8 (no one can get in to a facility without getting on the approved list); **Yukins**, TR Vol. 6, p. 53 (to be on approved list, visitor application must be completed, counselor checks prisoner file for information related to proposed visitor, and deputy warden approve or denies)

75. Volume was never one of Defendants' stated justifications for banning visits by most former prisoners. **Van Ochten**, TR Vol. 1, pp. 77 (concern re: former prisoners was smuggling)

I. Prohibiting Even Non-contact Visits by Minor Siblings, Nieces, and Nephews, and by Former Prisoners Who Are Not Immediate Family Has No Valid, Rational Connection to Defendants' Interest in Preventing Smuggling.

76. Although Defendants speculate that small children might be used to carry contraband, there is no evidence that relatives under 18 present any greater risk of smuggling than relatives over 18. **Bolden**, TR Vol. 4, p. 66 (not suggesting that sibilings or nieces are more likely to smuggle than average visitor); **Van Ochten**, TR Vol. 1, p. 154 (have been incidents of family members smuggling drugs); **Withrow**, TR Vol. 8, pp. 157, 158

(Warden who says small children are squirmy and hard to shake down and there's "always a possibility they're being forced to carry something" cannot cite a single incident of younger siblings smuggling contraband into her facility)

77. Concern about smuggling was not the basis on which siblings, nieces and nephews under 18 were prohibited from visiting. **Van Ochten**, TR Vol. 1, pp. 52, 76 (no special concern that children generally or nieces and nephews in particular are smugglers); p. 57 (no security concern would be affected by letting siblings visit)

78. There is no basis for assuming that all former prisoners present a significant risk of smuggling (or promoting escapes), no matter how long ago they were incarcerated or what their circumstances are currently. **Van Ochten**, TR Vol. 1, pp. 90, 172 (someone who has been out of prison for some time would be less of a security risk); **Trudeau**, TR Vol. 4, p. 103 (former prisoner who has had no legal trouble for 23 years and was employed by Ombudsman's office cannot visit); **Van Ochten**, TR Vol. 1, pp. 89, 171 (although another rationale for restricting former prisoners was the possibility of their involvement in escape plots based on their knowledge of facilities, this concern has no basis in reality)

79. Defendants have numerous ways of controlling smuggling even on contact visits that do not require excluding categories of visitors.

a. One instance of a major misconduct, such as drug smuggling, that occurs during or is associated with a visit, or one criminal act that occurs during a visit, is a basis for imposition of a permanent visiting restriction under the administrative rule and policy. **McGinnis**, TR

Vol. 8, p. 51; **Bolden**, TR Vol. 4, 62-63

b. The Defendants have adequate tools to prevent and detect drug smuggling, including the use of non-contact visits and a number of steps taken in 1995, such as implementation of the approved visitor lists, a prohibition on visitors being on multiple visitor lists if they are not immediate family, restrictions on the conduct of visits, and more intrusive searches of visitors. **McGinnis**, TR Vol. 8, pp. 50-51; **Bolden**, TR Vol. 3, pp. 67-68; **Mintzes**, TR Vol. 5, pp. 6-7; **Kupers**, TR Vol. 7, pp. 4-5

c. Both prisoners and visitors involved in smuggling are subject to criminal prosecution. **MCL 800. 281**; **Pls.' Exh. 40**: No. 180393, **Jon Weaver**, p. 338; No. 186296, **William Brussow**, pp. 395-96

d. The solution to smuggling is to modify security procedures, not restrict uninvolved visitors. **Mintzes**, TR Vol. 5, pp. 100-02, 106

80. Limiting minor siblings, nieces and nephews, and former prisoners who are not immediate family members to non-contact visits eliminates the opportunity to smuggle in any event. Mintzes, TR Vol. 5, p. 133 (non-contact visitation essentially eliminates the ability of anyone to pass anything to the prisoner); Bolden, TR Vol. 4, pp. 65-66 (although there is a "possibility", Deputy Director has no proof that smuggling occurs on non-contact visits and is not suggesting there should not be non-contact visits because of this possibility); Vol. 3, pp. 45-46 (doesn't know of any visitor who came for a non-contact visit that was involved in smuggling; chances of smuggling at Level 5 and 6 facilities that have only non-contact visiting are minimal); Van Ochten, TR Vol. 1, p. 77 (limiting former prisoners to non-contact visits should eliminate the opportunity to smuggle); Yukins, TR Vol.

6, p. 45 (in 11 years, warden never had an incident of a child smuggling on a non-contact visit)

J. Prohibiting Even Non-contact Visits by Minor Siblings, Nieces, and Nephews Has No Valid, Rational Connection to Defendants' Interest in Protecting Children.

81. Even Defendants' contact visiting rooms are secure and well-managed places where neither minor visitors nor their adult relatives felt children are unsafe. **Bolden**, TR Vol. 3, p. 66 (Defendants' visiting rooms are secure places); **Withrow**, TR Vol. 8, p146 (visiting room at Reformatory is secure); **Yukins**, TR Vol. 6, p. 52 (visiting room at Scott is safe); **Benejam**, TR Vol. 2, pp. 31-34 (visiting rooms at Carson City, Brooks, Chippewa were all clean, quiet, and closely supervised); pp. 62-63 (presence of sex offenders in visiting room does not concern her because that is not who her family is there to visit); **Shier**, TR Vol. 2, pp. 115-16 (his children were not apprehensive about going to visit, looked forward to seeing brother); **Brewer**, TR Vol. 2, pp. 71-72 (as young child visiting uncle, always felt safe; was happy to visit, not apprehensive); **Johnson**, TR Vol. 4, p 160 (prisoner was never apprehensive about his young cousins' safety when they were permitted to visit); **Smith**, TR Vol. 2, pp. 149-50 (prisoner had no concerns about having 8 year old sister visit at Kinross, which had a children's playroom and an outside visiting area); **Spencer**, TR Vol. 2, p. 136 (prisoner was never uncomfortable having young brother in visiting room with adult visitors); **Hendricks**, TR Vol. 2, p. 98 (teenaged sister who felt safe visiting brother in jail surrounded by police officers and guards would not be apprehensive about visiting at prison)

82. There is little chance of a minor witnessing inappropriate behavior even on a contact visit because the incidence of

misconduct of any type in visiting rooms is extremely low. **Pls.' Exh. 44**; **Creekmore**, TR Vol. 5, pp. 43-46 (in 1995, the average ratio of any type of misconducts in the visiting room to each 1000 visits was 1); pp. 74-75 (for three year period from 1995-97, ratio of visiting room misconducts to visits is very stable and low); **Bolden**, TR Vol. 3, p. 64 (Deputy Director agrees that number of misconducts in visiting room compared to total number of visits is very small); **Shier**, TR Vol. 2, p. 115 (father who visited regularly for several years never saw adults engage in behavior he did not want his children to see); **Benejam**, TR Vol. 2, pp. 31-33 (mother who visited regularly at three different facilities never saw behavior she would not want young daughters to see)

83. While injuries to small children who are not properly supervised are theoretically possible, Defendants produced no evidence out of hundreds of thousands of visits annually, that any injuries have actually occurred. **Bolden**, TR Vol. 3, p. 39 (Deputy Director knows of no actual injuries to children); **Jones**, TR Vol. 9, p. 51 (warden never actually saw children almost get fingers pinched in the gates); **Yukins**, TR Vol. 6, p. 46 (only incidents warden recalls involved toy box lid falling on child's hand or head); **Brewer**, TR Vol. 2, p. 7 (nephew who visited regularly from infancy until age 7 never hurt self or saw any other child get hurt); **Shier**, TR Vol. 2, p. 115 (father who visited before rules changed saw young children play with toys, never saw them get hurt or act out of control)

84. Defendants have adequate authority to address risky or disruptive behavior by children. **Bolden**, TR Vol. 3, pp. 35, 38 (Defendants enforce requirement that visitors are responsible for children by issuing warnings and terminating visits, and officers are trained to do this); **Jones**, TR Vol. 9, p. 51 (if behavior of small children is

risky or unruly, staff can speak to accompanying adult and, if necessary, terminate visit); *see also* **Caruso**, TR Vol. 8, p. 97 (same); **Mintzes**, TR Vol. 5, pp. 125-26 (controlling behavior of children is management issue that can be addressed by warnings and disallowing visits by particular children)

85. Sexual molestation of children in visiting rooms is extremely rare. **Van Ochten**, TR Vol. 1, p. 78; **Yukins**, TR Vol. 6, p. 106 (warden can't recall an incident of sexual abuse of a child on a visit in 11 years)

86. While Defendants assert that the risk of sexual misconduct involving children is significant even on non-contact visits, Defendants' single example, Defs.' Exh. 15, does not support this claim.

a. While it appears the prisoner masturbated in front of his wife and infant daughter, there is no indication that the child, who was seated in a stroller and looking away, even saw the activity or would have recognized its sexual nature if she had.

b. One incident out of the tens of thousands of non-contact visits conducted annually does not constitute a pattern for which a broad policy is warranted.

c. The fact that one prisoner would seek sexual gratification with his wife in the presence of his infant child does not predict what that prisoner, much less other prisoners, would do in the presence of brothers, sisters, nieces, and nephews.

d. The fact that a prisoner who is already restricted to non-contact visits because of his inability to control his behavior engages in sexual misconduct has no predictive value for how prisoners in general would behave if non-

contact visits with siblings, nieces, and nephews were permitted. The past behavior of these prisoners with these visitors is the relevant measure of potential risk.

87. Defendants' concerns about the psychological affect of prisons on minor visits do not involve a penological interest and are wholly unsupported by evidence, research, or expert testimony in any event. McGinnis, TR Vol. 8, p. 22 ("a lot of us just felt [prison] was not a place for minor children who did not a direct relationship" to a prisoner)] Bolden, TR Vol. 3, pp. 58-61 (personal philosophy that "prison is not a place for children to be" unless they are visiting own parents is not based on any studies or conversations with children or on professional ability to evaluate best interest of a child); Withrow, TR Vol. 8, pp. 143-45, 155 (warden's concerns about younger siblings thinking prison is an ok place to be is not based on her education, research, or conversations with siblings and is not related to security), p. 155 (warden thinks her concern for child's welfare should trump parent's because "as an agent of the protection of the public business, which is what I'm in, that yes, I think I have that responsibility."); Kupers, TR Vol. 6, pp. 151-53 (youngsters do not learn bad habits from imprisoned siblings and the notion that children lose their fear of prison by visiting is unsupported; it is the trauma of separation that causes emotional difficulty and behavior problems for children who miss their siblings); Brewer, TR Vol. 2, p. 75 (minor nephew did not think uncle was happy in prison or that it was a place child himself would want to be); Shier, TR Vol. 2, p. 119 (father would take children to see older brother so they would know brother was alright even though prison is not an ok place to be)

K. Letters and Telephone Calls Are Inadequate to Serve as an Exclusive Means of Maintaining Family Bonds over a Period of Years, Especially for Children.

88. Telephone calls are too expensive for most families to use often, they are automatically terminated after 15 minutes, they are constantly interrupted with recorded messages, they are tape-recorded by the institution, and they do not provide the same opportunity to communicate that face-to-face conversation does. **Kupers**, TR Vol. 6, pp. 143-44; **Staton**, TR Vol. 4, p.146 (prisoner lost contact with her son when people who had custody would not accept collect calls and she did not get address changes); **Shier**, TR Vol. 2, pp. 118-19 (unlike seeing someone, telephone calls don't allay family concerns about whether prisoner is alright); **Brewer**, TR Vol. 2, p. 75 (interruption every few minutes to announce he is talking to a prisoner); **Hendricks**, TR Vol. 2, pp. 89, 97, 99 (circumstances of prison phone calls make conversations superficial, everyone is talking fast and getting interrupted, inadequate to maintain emotional connection); **Benejam**, TR Vol. 2, pp. 42-44 (can't establish conversation because of recordings and 15 minute shut-off; reluctance to discuss personal matters because of monitoring); **Shanks**, TR Vol. 2, p. 128 (telephone calls with minor relatives are not adequate substitute for visits because "you don't see them getting bigger…or growing older"); **Smith**, TR Vol. 2, p. 154 (talking on phone to younger sister who had been stopped from visiting not much help because emotional contact not there); **Dixson**, TR Vol. 7, p. 125 (prisoner parents need to hold their children and answer questions in way that can't be done on phone)

89. Letter writing is an inadequate substitute for visits because many prisoners and their family members, including young children, are barely literate, and because

it does not provide the opportunity to engage in spontaneous, private conversation and to reassure family members of that their loved one is well and safe. **Kupers**, TR Vol. 6, pp. 142-43, 150; **Clark**, TR Vol. 4, pp. 115-16 (letter writing ineffectual for young child who used to visit every 3-4 months and does not understand she no longer can); **Hendricks**, TR Vol. 2, p. 99 (by time response is received have forgotten questions you asked); p. 106 (teenaged sister believes everything she writes will be read by DOC staff); **Benejam**, TR Vol. 2, p. 46 (writing often is hard for busy family members and does not result in effective communication)

L. Non-contact Visits Are a Viable, Albeit less Desirable, Alternative to Contact Visits as a Means of Maintaining Bonds among Family and Friends.

90. Although contact visits are of higher quality because the ability to touch is very important, the visual contact that occurs on non-contact visits is crucial to family members' ability to reassure themselves about a loved one's welfare. **Kupers**, TR Vol. 6, pp. 141-42

91. Family members who have experience with non-contact visits found them to be a critical means of maintaining relationships because they allow for face-to-face contact and spontaneous conversation. **Hendricks**, TR Vol. 2, pp. 86-87 (despite glass dividers and use of phone to talk, non-contact visits were pleasant, eventually you forgot you were at a jail and just talked, visits prevented incarceration from breaking up family); **Shier**, TR Vol. 2, p. 121 (younger children were "thrilled" to see older brother through glass at county jail because it alleviated their anxiety about his welfare); **Benejam**, TR Vol. 2, pp. 46, 64 (mother who visited son non-contact for six months would bring young daughters and grandchildren for non-contact visits "immediately" if she could)

M. Permitting Non-contact Visits with Minor Siblings, Nieces, and Nephews and with Former Prisoners Who Are Not Immediate Family Members Would Not Have Substantial Impact on Defendants' Staff or Resources.

92. All facilities currently have either built-in or portable non-contact visiting booths available. **Bolden**, TR Vol. 3, pp. 29-30

93. Portable booths are built by prison industries and a warden who needed more could afford to purchase them. **Bolden**, TR. Vol. 3, p. 30 (made by industries), p. 56 (Defendants' current budget is over $1.5 billion); **Jones**, TR Vol. 9, pp. 54-55 (warden with institutional budget of $41 million would purchase a few more portable booths if he needed them)

94. Visitors are processed in for contact and non-contact visits in exactly the same way. **Benejam**, TR Vol. 2, pp. 40-41

95. Portable booths can be placed in the contact visiting room at whichever spot allows for the most effective surveillance by officers and cameras. **Bolden**, TR Vol. 3, p. 30 (booths can be moved in and out of visiting rooms); **Mintzes**, TR Vol. 5, pp. 112-13 (each institution determines placement of non-contact booths that is best for security)

96. Since Defendants have no idea how many minor siblings, nieces, and nephews and former prisoners would want non-contact visits, Defendants can only speculate as to what the impact on its staff and resources would be. *See* ¶¶ 69-71, *supra*; **Yukins**, TR Vol. 6, p. 118 (warden acknowledges that with no idea of the number of visitors

involved, she has no idea whether she would need more staff or longer visiting hours)

97. Given the 50% reduction in visiting volume and the fact that many facilities had no volume problems to begin with, it is highly unlikely that restoring visits to a limited group of people, who would have to fit on a prisoner's approved list in any event, would substantially burden Defendant's staff and resources. *See* ¶¶ 62, 68 and 74, *supra*

98. If the demand for non-contact visits became burdensome at any particular facility or group of facilities, the Deputy Director could adjust visiting hours to take any of the other steps that are within his authority to control visits without excluding these categories of visitors altogether. **Bolden**, TR Vol. 3, p. 66 (policy grants him authority to control visiting hours, number of visits allowed, and number of visitors per visit); **Pls.' Exh. 2A**, PD 05.03.140, p. 4, ¶ U

99. While Defendants cannot be required to restore minor siblings, nieces, and nephews and former prisoners to contact visitation, Defendants could amend R 791.6609 to permit that option if it decided that contact visits for these groups were more workable after all. **Pls.' Exh. 56** (Public Statement of RPA Denise Quarles)

N. The Minimal and Speculative Nature of Defendants' Proofs, the Overbreadth of the Policies and the Availability of Alternatives All Indicate Defendants Engaged in an Exaggerated Response to Overstated Problems.

100. To whatever extent Defendants' concerns about minors and former prisoners are valid, non-contact visits were designed specifically to be an alternative to contact visits

where security concerns exist. Visits with whole categories of individuals should not be prohibited altogether absent a reasonable basis for believing that non-contact visits will not address security concerns adequately. **Pls.' Exh. 2A**, p. 1, ¶¶ DD – II

101. Defendants' prohibition of visits by minor relatives was an overreaction to a single instance of sexual molestation of a child who was wholly unrelated to the prisoner, an incident which could have been prevented under existing rules had staff taken appropriate security measures. **Van Ochten**, TR Vol. 1, pp. 77-79]

102. Where there is no evidence of any child over the age of 10 ever having been sexually molested, there is no logical justification for prohibiting visits by older children and teenagers. **McGinnis**, TR Vol. 8, pp. 53-54; **Van Ochten**, TR Vol. 1, p. 79

103. A warden's attempt to explain how a small child, standing in the lap of a parent seated some distance from a non-contact booth, could see over a three foot divider, past a non-contact visitor, and over another divider to observe a seated prisoner touching his genitals demonstrates the extent to which Defendants' policies are based on conjecture. **Withrow**, TR Vol. 8, pp. 139-142

104. The Deputy Director's insistence that there is great potential for physical harm to children who visit, even though he knew of no actual injuries and the only specific potentially harmful incident he could cite was when children were found locked in a car in a prison parking lot in the 1970's, demonstrates the extent to which Defendants' policies are based on conjecture. **Bolden**, TR Vol. 3, pp. 33, 38

105. The potential risk that someone will act inappropriately

toward a visitor does not justify excluding an entire group of visitors. **Mintzes**, TR Vol. 5, pp. 133-34

106. Concerns about the safety of small children who might run around and get hurt, which are exaggerated in any event, are wholly irrelevant to prohibiting visits by older children and teenagers. *See* paragraph 83 , *supra*; **Spencer**, TR vol. 2, p. 144 (16-year-old brother who was too young to visit was not too young to be tried as adult when arrested for drugs); **Hendricks**, TR Vol. 2, p. 83 (16-year-old sister with driver's license is too young to visit 19-year-old brother)

107. The fact that drugs can be left by visitors in bathrooms or outside buildings for pick-up by a prisoner porter does not logically justify denying non-contact visits by minor children. **Bolden**, TR Vol. 3, pp. 29-32

108. Defendants' policies regarding who can bring prisoners' children to visit and the impact of voluntary terminations of parental rights, which result in denying some children visits with their own parents, are an exaggerated response to Defendants' stated purposes for these policies. **Scarnecchia**, TR Vol. 1, pp. 187-88

109. Concerns about forgery do not logically justify requiring legal guardians to accompany prisoners' children on visits. Speculation that a prisoner could manufacture a power of attorney and send it out to a party who would get it notarized and slip it past an unsuspecting desk officer as a legal document misapprehends the fact that a prisoner need only get his or her signature notarized by a facility employee and a power of attorney is a legal document. **Bolden**, TR Vol. 4, p. 35

110. Concern that prisoners' girlfriends used to bring a lot of children who were unrelated to prisoners for lengthy

visits does not logically justify prohibiting visits by prisoners' siblings, nieces and nephews. **Bolden**, TR Vol. 4, pp. 26-27

111. Defendants' prohibition of visits by former prisoners who have been law-abiding and productive citizens for many years is an exaggerated response to improbable visions of drug smuggling and escape plotting on non-contact visits. **Trudeau**, TR Vol. 4, p. 103; **Van Ochten**, TR Vol. 1, pp. 170-71

112. There is some risk in everything people do. If you base policies on the odd chance that someone might be at risk, you end up restricting large numbers of people for the small eventuality. **Mintzes**, TR Vol. 5, pp. 124-125

O. Defendants' Prohibition on Visits by Minor Siblings, Nieces, and Nephews Causes Pain to Individual Prisoners and Children, Destroys Family Bonds, and Undermines Parental Authority.

113. The inability of siblings who had close relationships to see each other at all causes substantial pain and anxiety. **Shier**, TR Vol. 2, p. 121 (younger children are anxious about incarcerated sibling's welfare based on things they see on TV); **Benejam**, TR Vol. 2, p. 41 (young daughters were extremely upset and sad about not being able to visit brother; incarcerated brother was also very sad and disappointed); **Spencer**, TR Vol. 2, pp. 133, 140, 144 (when younger brother, who was 6 when sister went to prison in 1990 and visited for five years, had mother die in 1998 and could not visit sister who was like a second mother, he got depressed and used drugs, then committed suicide); **Hendricks**, TR Vol. 2, p. 88, 90-92 (teenaged girl who was very close to older brother and misses him greatly is sometimes overwhelmed by sadness)

114. Children who are prevented from visiting their siblings, aunts and uncles in prison feel that they are being treated unfairly and it is as if they are being punished. **Shier**, TR Vol. 2, p. 118 (teenaged sister who had previously been allowed to visit would cry when father went to visit and say it wasn't fair); **Benejam**, TR Vol. 2, p. 45 (mother feels young daughters who have not seen brother in five years are being punished); **Brewer**, TR Vol. 2, p. 74 (nephew who had visited since infancy was upset when told at age 8 he could no longer visit); **Smith**, TR Vol. 2, pp. 152-54 (13 year old sister who had been visiting since she was a little girl was upset by sudden prohibition and thought it was her fault); **Hendricks**, TR Vol. 2, p. 94 (teenaged sister feels it is unfair that whole family can laugh and be part of each other's lives during visits except her)

115. When minor siblings, nieces and nephews are not permitted to visit, under any circumstances, for years, it prevents family bonds from forming and substantially weakens existing bonds. **Benejam**, TR Vol. 2, pp. 29, 42 (22-year-old son worries his sisters won't really know him after being separated for over a decade and they won't have same sibling relationship; hasn't ever seen his sister's two children); **Carter**, TR Vol. 2, pp. 168-69, 174-75 (where prisoner was a father figure to nephew who used to visit, nephew and prisoner's youngest sister are now "just left" of very close family); **Brewer**, TR Vol. 2, p. 78 (little sister has never been able to visit so she has not gotten to know uncle; prisoner who is serving long drug sentence and has no children of own cannot see five of six nieces and nephews because they are under 18); **Hendricks**, TR Vol. 2, pp. 97, 98 (teenaged sister has difficulty staying emotionally connected to brother she hasn't seen in nearly three years and feels "like he died. It was just like he wasn't there any more.")

116. Parents who want their children to visit incarcerated siblings, aunts and uncles are frustrated by their inability to act on what they believe is best for their own children. **Shier**, TR Vol. 2, p. 120 (as parent he should decide whether his children get to maintain their relationships with each and whether younger children should be part of older son's rehabilitation; children would visit in his company and he would be responsible for them); **Benejam**, TR Vol. 2, pp. 45, 47, 49-50 (mother who had attorney unsuccessfully seek permission for daughters to have one visit with incarcerated son wants to make decisions about their relationship as "the mother of all three of them"; feels interaction with siblings is part of son's rehabilitation; would bring children herself and be responsible for their safety); **Hendricks**, TR Vol. 2, p. 98 (father's request for permission to let 16-year-old daughter visit 19-year-old son was denied because of policy);

P. Defendants' Prohibition on Visits by Former Prisoners Further Isolates Current Prisoners, Undermines Family and Community Ties, and Interferes with Professional Activities That Benefit Prisoners and Their Families.

117. Some prisoners who have served many years have no family left and the only friends they have on the outside are former prisoners. **Trudeau**, TR Vol. 4, pp. 98-102 (aging prisoner who gets no other visitors cannot see old friend who has been out working and raising a family for 23 years and who is only one to bury prisoner when he dies.)

118. The restriction on visits by former prisoners who are not immediate family members affects the ability of prisoners to maintain relationships with immediate family. **Kupers**, TR Vol. 6, p. 155 (a prisoner's ex-spouse who

had been incarcerated could not bring their child to visit); **Wilson**, TR Vol. 4, pp. 107-08 (out-of-state daughter who was planning to visit incarcerated mother as part of honeymoon did not come because new son-in-law was former prisoner who could not get in)

119. Former prisoners who have turned their own lives around are prevented from assisting current prisoners on a professional or volunteer basis. **Pls.' Exh. 1**, 791.6609(7) and (8) (only exception for former prisoners who are not immediate family is if they are attorney, clergy or public official); **Dixson**, TR Vol. 7, pp. 121, 130-132 (former prisoner who is now a social worker working with children who have parents in prison was not permitted to take a prisoner's child to visit and cannot visit as a volunteer with her church's prison ministry)

120. The prohibition against visits by former prisoners has disparate impact on the African-American community. **Kupers**, TR Vol. 6, pp. 155-56 (such a high proportion of African-American men have been incarcerated at some point that African-Americans currently in prison are very likely to be barred from seeing relatives and friends who are central to their support network)

II. PERMANENT RESTRICTIONS

A. Importance of Visiting

1. Visits from family and other loved ones are one of the most important things in the life of a prisoner. **Van Ochten**, TR Vol. 1, pp. 99-100; **McGinnis**, TR Vol. 8, p. 73; **Bowyer**, TR Vol. 4, p. 183; **Dixson**, TR Vol. 7, p. 121, 125 (visits with children meant hope for incarcerated mother serving life term)

2. There is broad consensus, supported by decades of research, that by helping to maintain family and community ties, visits promote rehabilitation, reduce behavior problems while incarcerated, and significantly increase the chance for success on parole. **Van Ochten**, TR Vol. 1, p. 59; **Mintzes**, TR Vol. 5, pp. 98-100

   a. Research shows that visiting is the factor that correlates most strongly with a prisoner's success after release. **Kupers**, TR Vol. 6, pp. 131-32 (classic Holt and Miller study, showing prisoners who have three regular visitors are one-sixth as likely to return to prison in a year, is one example among many), 134

   b. Maintaining spousal relationships through visits is critical because released prisoners who live with a spouse or other partner have a recidivism rate of 15-20% as compared to the standard rate of 63%. **Kupers**, TR Vol. 6, p 160

   c. Visiting is necessary to permit prisoners to function as family members and to repair bonds severed when a family member is incarcerated. **Kupers**, TR Vol. 6, pp. 133, 135

d. Visits counteract the harsh environment and demeaning procedures prisoners experience routinely by helping them maintain loving, supportive relationships and a sense of compassion. **Mintzes**, TR Vol. 5, pp. 102-03; **Kupers**, TR Vol. 6, p. 139; **Hendricks**, TR Vol. 2, p.97 (seeing little sister is a "softening, humanizing thing" for brother in prison); **Brewer**, TR Vol. 7, pp. 112-14 (prisoners can only share feelings with family members); **Dixson**, TR Vol. 7, p. 125 (surrounded by people who don't care about them, prisoners wait for visits from people who love them)

3. Visitation is critical to maintaining the mental health of all prisoners. Kupers, TR Vol. 6, p. 139

a. Maintaining social relationships through visitation is extremely important because the isolation of prison and disconnection from caring relationships reduces the prisoner's self-esteem and connection with reality and can cause severe mental illness. **Kupers**, TR Vol. 6, pp. 130-31

b. Prisoners as a group tend to be highly vulnerable to the impact of stress because: 1) they have had significantly more trauma in early childhood than the general population, including physical and sexual abuse; **Kupers**, TR Vol. 6, pp. 129, 178; 2) from 60-80% suffer from significant substance abuse; **Kupers**, TR Vol. 6, p. 130; 3) from 16-25% suffer from significant mental illness warranting treatment; **Kupers**, TR Vol. 6, p. 129; 4) they have a high incidence of dual diagnosis based on attempts to self-medicate clinical depression through substance abuse; **Kupers**, TR Vol 6, p. 125; Vol 7, pp. 8-9; and 5) they must cope with such chronic life-threatening illnesses as HIV, AIDS, and Hepatitis C at 6-10 times the rate of the general population. **Kupers**, TR

Vol. 6, p. 129

c. Prisoners, especially those who are parents, believe they have failed in their obligations to their families and tend to develop depression, low self-esteem, and shame. Women prisoners develop an especially high incidence of depression because of their separation from children and loved ones. **Kupers**, TR Vol. 6, p. 133-34

d. Visits are particularly important for prisoners in their late teens and early twenties because that is when most serious mental health problems first occur and people that age need the influence of caring people to develop their own sense of identity. **Kupers**, TR Vol. 6, p. 140

e. Visits are particularly important for prisoners diagnosed with mental illness since meaningful family contact greatly increases their chance for success upon release. **Kupers**, TR Vol. 6, p. 132

4. Letters and telephone calls are inadequate as an exclusive means of maintaining family bonds for a period of years, especially for children. See, I. Visiting Rules, Sec. K, *supra*.

5. Whether a prisoner has maintained family ties/received visits is a factor considered by the parole board when deciding whether to grant parole. Pls.' Exh. 1, R 791.7715(2)(c)(iii); Van Ochten, TR Vol. 1, p. 116; Mintzes, TR Vol. 5, pp. 120-21

B. Historically, corrections officials, nationally and in Michigan, have adopted policies and practices that encourage and facilitate visits.

6. The American Correctional Association Standards, which Michigan purports to follow, say that visits should be

limited only by institutional schedule, space and personnel constraints or when there are substantial reasons to justify limitations; that prisoners should be permitted to visit with people of their choice unless there is a clear and convincing threat to safety and security; and that prisoners in segregation should have opportunities for visitation unless there are substantial reasons for withholding it. **Pls.' Exh. 3**, Stnds. 3-4440 and 3-4255; **McGinnis**, TR Vol. 8, p. 50; **Bolden**, TR Vol. 3, pp. 25-28; **Mintzes**, TR Vol. 5, pp. 105-08

7. Other state standards recognize the value of visits and none allow for a complete ban on family visits for behavior unrelated to the visit. Pennsylvania provides that "restriction of visiting privileges will not be used as a disciplinary measure for unrelated facility rule infractions" **Def's Exh 5**, **Kupers**, TR Vol. 6, pp. 134 (importance of fostering visits is expressly mentioned in many state's visitation policies)

8. Defendants' visiting policy used to expressly state (and many facilities' operating procedures still do) that visits are important to rehabilitation and post-release adjustment and should be encouraged. **Van Ochten**, TR Vol. 1, pp. 64-65; **Bolden**, TR Vol. 3, pp. 32-33; **Yukins**, TR Vol. 6, pp. 50-51; **Pls.' Exh**. 55

9. Defendants used to permit visits by anyone not personally subject to restriction, including minors, and used to foster visits through such practices as flexible visiting hours tailored to the circumstances and location of the facility. **Van Ochten**, TR Vol. 1, p. 69; **Bolden**, TR Vol. 3, p. 91; **Pls.' Exh** 9, outdoor visiting areas with picnic tables; **Bolden**, TR Vol. 3, p. 68; **Brewer**, TR Vol. 2, pp. 69-70; and the building of regional facilities to minimize travel time for visitors; **Mintzes**, TR Vol. 5, p. 139). It still maintains a special visitation program for prisoner

mothers and children. **Van Ochten**, TR Vol. 1, p. 60; **Langley**, TR Vol. 9, pp. 81-82.

C. The Nature of Permanent Visiting Restrictions

10. P.D. 05.03.140, Sec. BBB states that the Director may permanently restrict all visits for a prisoner who is found guilty of two or more violations of the major misconduct charge of substance abuse. The policy implements R 791.6609, as amended August 25, 1995.

11. Other than attorneys, clergy, and Ombudsman's staff, a permanent visiting restriction applies to all visitors, without exception.

a. No one, including wardens and the Deputy Director of CFA, has the authority to grant individual exceptions. **Bolden**, TR Vol. 3, p. 63

b. A restriction applies to both contact and non-contact visits. **Van Ochten**, TR Vol. 1, p. 120

c. A prisoner serving life or a long indeterminate term can be isolated from in-person contact with any visitor from the outside world for decades. **Pls'. Exh. 40**, No. 113341, **Willie Brown**, p. 17 (warden and RPA recommend that lifer never have visits restored)

12. A permanent visiting restriction is separate from and in addition to the penalty imposed by the hearing officer for each instance of substance abuse misconduct, and to other consequences, like loss of good time and security reclassification, that may result from misconduct finding. **Bolden**, TR Vol. 3, pp. 140-42; **Yukins**, TR Vol. 6, pp. 60-62 (at Scott Facility, women found guilty of a substance abuse misconduct were automatically placed in segregation, which resulted in loss of telephone

privileges, jobs, programming, yard, direct law library access, and up to two years good time, and receipt of five negative classification points); *See also* **Staton**, TR Vol. 4, pp. 135-37.

13. A permanent visiting restriction carries with it the additional penalty of prohibiting placement in a camp, corrections center, or non-secure Level 1 facility. **Van Ochten**, TR Vol. 1, pp. 115-16; **Bolden**, TR Vol. 3, pp. 111-16; **Yukins**, TR Vol. 6, pp. 84-85 (since there is no secure Level 1 facility for women, they must remain at Level 2)

a. This classification restriction does not apply to everyone who has two substance abuse tickets, or to anyone who has two tickets of any other type. It applies only to people who have received a permanent restriction. **Van Ochten**, TR Vol. 1, p. 117; **Pls.' Exh. 2B**, p. 8 (Prisoner Placement and Transfer Policy Directive, Sec. VV)

b. This additional aspect of the permanent restriction further reduces the prisoner's chance of obtaining parole because it denies the prisoner the opportunity to demonstrate to the parole board his or her ability to function responsibly in a less restrictive setting. **Van Ochten**, TR Vol. 1, p. 116

14. Substance abuse misconducts include a wide range of behavior unconnected to visiting, such as possessing restricted medication, marijuana or homemade alcohol, failing or refusing a drug test, and possessing narcotics paraphernalia. Quantity is not an element of the misconduct charge, and a prisoner may be found guilty for possessing one pill or one marijuana cigarette. **Pls.' Exh. 2,** PD 03.03.105, Attachment B, p. 5.

15. About 25% of all substance abuse misconducts involve

alcohol. **Pls.' Exh. 46**; **Creekmore**, TR Vol. 5, p. 57

16. There are no time limits on the age of the misconducts that can be used to ban visits, so long as they occurred after the permanent restriction rule took effect. **Pls.' Exh. 32**

17. A prisoner who presents so few management problems that he or she is housed at custody level 1 or 2 may be denied visitation for years, solely on the basis of two substance abuse misconducts, while a prisoner who accumulates so many or such serious misconducts that he is classified to custody level 5 or 6, or is in segregation, is permitted to have routine visits with anyone on his approved list, though they must be non-contact. **Van Ochten**, TR Vol. 1, pp. 170-71; **McGinnis**, TR Vol. 8, pp. 63-63

D. Permanent Visiting Bans Apply to Visits by Immediate Family Members, Despite the Harm to the Children, Spouses, Parents, and Siblings of Prisoners, and to Relationships among Family Members.

18. A permanent restriction directly undermines the maintenance of relationships between prisoner parents and their minor children. **Langley**, TR Vol. 9, p. 84 (A permanent restriction would prohibit a woman prisoner from participating in the Kids Need Moms children's visitation program); **Brewer**, TR Vol. 7, pp. 116-17 (two years without visits delayed reintegration in lives of young sons upon parole release); **Staton**, TR Vol. 4, pp. 140-43 (prisoner not allowed to see son despite court order directing prisoner's sister to bring child to visit because warden said order did not require Defendants to permit visits); *See also* **Pls.' Exh. 31**

19. Since having a parent in prison is extremely traumatic to

a child and the importance of visitation to counteract the impact of separation is undisputed, cutting off visitation with the prisoner's minor children may cause insurmountable harm to the child's psychological development. **Kupers**, TR Vol. 6, pp. 149, 151, 158; Vol. 7, pp. 42-44

20. Visits by parents whose children are incarcerated helps counteract the parents' guilt and depression and maintain family ties. **Kupers**, TR Vol. 6, pp. 161-63; **Brewer**, TR Vol. 7, p. 112 (difficulty of not being able to see and hold seriously ill mother)

21. The inability to visit for two or more years will be perceived as permanent by minor children and as an eternity by prisoners in their teens and twenties. **Kupers**, TR Vol. 6, p. 157 (children) and pp. 140-41 (younger prisoners)

22. For children who had been having contact visits with parents to lose visits altogether, and to know that no one is actually seeing their parents, creates new trauma and increased anxiety about the parents' well-being. **Kupers**, TR Vol. 6, p. 159

23. The permanent ban on visits between prisoners and their spouses severely damages the marital relationship and increases divorce rates. **Kupers**, TR Vol. 6, pp. 159-160

24. Prisoners' requests for exceptions to permit even one-time or non-contact visits from spouses, children, aging parents, and other close relatives are virtually always rejected. **Johnson**, TR Vol. 4, pp. 166-67 and **Pls.' Exh. 40**, p. 238 (prisoner who had lost both parents while incarcerated asked to see remaining aunts on non-contact basis); **Pls.' Exh. 40**: No. 113341, **Willie Brown**, pp. 24-25, 28-29 (requests from prisoner and aging mother

for non-contact visits) No. 138947, **Montgomery Riley**, p. 87 (request for single non-contact visit with elderly mother and step-father who were traveling to Michigan from Mississippi) No. 186296, **William Brussow**, pp. 389, 391, 393, 396 (repeated requests for at least non-contact visits with immediate family, especially elderly grandparents) No. 252446, **Phillip Gonzalez**, p. 788A (request for restricted visits with immediate family made after 13 months and completion of two substance abuse programs). *But see*, No. 196575, **John Skavdahl**, p. 824 (non-contact visit with elderly father permitted after request by legislator)

25. Prisoners are not permitted visits by family members that would help them prepare for parole board hearings or parole release. **Bowyer**, TR Vol. 4, p. 184 (could not meet with cousin who would represent him at parole hearing); **Brewer**, TR Vol. 7, p. 114 (ability to prepare for parole hearing affected); **Pls.' Exh. 40**, No. 163852, **Patrick Turner**, p. 252 (wheelchair bound prisoner who has lost phone privileges wants to see father before scheduled parole hearing)

26. Some prisoners die without having seen their families again because they are on permanent restrictions. **Bolden**, TR Vol. 3, p. 142; **McGinnis**, TR Vol. 8, pp. 67-68; **Pls.' Exh. 40**, No. 237134, **Benjamin Atkins**, p. 193 (prisoner with six month restriction for alcohol misconducts died of AIDS three months after scheduled review date passed without action).

27. The permanent visiting ban causes permanent damage to intact families. **Kupers**, TR Vol. 7, p. 23.

E. Uniqueness of Using Visits as Punishment

28. Michigan's use of a permanent visiting restriction as

punishment for two substance abuse misconducts is unique nationally.

a. Only Florida was shown to permit any visiting restriction for misconduct not associated with a visit and the restriction is limited to three months.

b. No other jurisdiction permits visiting restrictions on prisoners, even when allowed for visit related misconduct, to be permanent **Kupers**, TR Vol. 6, pp. 175-76

29. The use of a permanent visiting restriction as punishment for two substance abuse misconducts represents a radical departure from the rest of the Michigan discipline process.

a. The sanctions permitted for major misconduct are punitive segregation, toplock, loss of privileges, extra duty and restitution. Additional consequences may include loss of good time and security classification review. A visiting restriction cannot be imposed by a Michigan hearing officer for any misconduct that is not visit related. For visit related misconduct, the maximum loss of visiting privileges is 30 days. **Pls.' Exh. 1**, R 791.5505(1); **Pls.' Exh. 2**, PD 03.03.105, p. 8, ¶¶ Q, R. CC, EE, and Attachment D, ¶ M; **Van Ochten**, TR Vol. 1, pp. 28-29;

b. Visiting restrictions are not permitted for such more serious non-bondable major misconduct as assault, sexual assault, and possession of a weapon. Under current rule, the only misconduct not associated with a visit other than substance abuse that can result in a permanent restriction is escape, attempted escape or conspiracy to escape. **Pls.' Exh. 1**, R 791.6609, Sec. 11; **Van Ochten**, TR Vol. 1, pp. 101-01, 166-67; **McGinnis**, TR Vol. 8, pp. 55-56;

Mintzes, TR Vol. 6, p. 10 (no penological reason for imposing visiting restrictions for non-visit related behavior);

c. Substance abuse is a less serious bondable misconduct. **Pls.' Ex 1**, p. 9; **Van Ochten**, TR Vol. 1, p. 28; **Bolden**, TR Vol. 4, p. 76; **McGinnis**, TR Vol. 8, p. 55; **Mintzes**, TR Vol. 6, p. 6 (concerned about "devastating impact" of permanent restriction as sanction for one of less serious possible misconducts for which other sanctions are available)

d. The typical discipline imposed for a substance abuse misconduct is 3-7 days toplock and forfeiture of good time. **Johnson**, TR Vol. 4, p. 162 (5 days toplock, few hundred days good time, security level raised for 90 days); **Brewer**, TR Vol. 7, p. 108 (7 days toplock, forfeiture of good time, raised one security level); *See also*, e.g., **Pls.' Exh. 40**: No. 138947, **Montgomery Riley**, p. 085 (3 days toplock); No. 178579, **Gerald Gaines**, p. 316 (3 days toplock); No. 243518, **Joseph Van Buskirk**, p. 745 (3 days toplock); No. 238324, **Michael Couch**, p. 706 (7 days toplock); No. 258127, **Rufus Neely**, p. 789 (7 days toplock); No. 263692, **Jack Hodges**, p. 799A (7 days toplock).

e. For prisoners classified below Level 5, sanctions other than a permanent visiting ban are available. Although Level 5 prisoners have fewer other privileges to lose, there is also a lower incidence of drugs in Level 5 facilities. **Caruso**, TR Vol. 8, pp. 101, 106-08; **Bolden**, TR Vol. 3, p. 46

f. The permanent visiting restriction conflicts with current disciplinary standards that require progressive sanctions and use of the least drastic measure. **Plfs. Exh. 2**, PD

03.03.105, p. 1, ¶ A; **McGinnis**, TR Vol. 8, pp. 61-62; **Bolden**, TR Vol. 3, p. 103; **Mintzes**, TR 6, pp. 11-13

F. Origins of Permanent Visiting Restriction Policy

30. Defendants originated and implemented the concept of using permanent visiting restrictions as a punishment for substance abuse as part of its zero tolerance philosophy, under which a single instance of substance abuse is defined as a problem. **Van Ochten**, TR Vol. 1, p. 95; **McGinnis**, TR Vol. 8, pp. 61-63; **Yukins**, TR Vol. 6, pp. 59-60, 118; **Caruso**, TR Vol. 8, p. 101

31. The use of permanent visiting restrictions was not motivated by any Department-wide rise in substance abuse. In fact, random drug testing begun in the late 1980's had brought drug use down. **Van Ochten**, TR Vol. 1, pp. 98-99

32. The concept of a permanent ban for two substance abuse misconducts was adopted after the public had voiced vigorous opposition to the harshness of a proposed 90 day visiting ban for each substance abuse ticket at a lengthy and emotional public hearing and in extensive written comments The permanent ban was never presented at a public hearing. **Van Ochten**, TR Vol. 1, pp. 43-45, 93-94; **Pls.' Exh. 14** (memo to McKeon); **Pls.' Exh. 15** (report to JCAR); **McGinnis**, TR Vol. 8, p. 60

33. An emergency rule permitting permanent restrictions for visit related misconduct, instead of a ban on contact visits only, had been adopted despite Ms. Van Ochten's questions about the security need and potential unconstitutionality. **Van Ochten**, TR Vol. 1, pp. 104-05, 149-50; **Pls.' Exh. 16**

34. Defendants' employees proposed various alternative

measures, including progressive sanctions. **Pls.' Exh. 22** (sliding scale for length of restriction based on frequency of misconducts, requirement of additional factors indicating drug trafficking or heavy use, permanent restriction only if two misconducts within one year, eligibility for restoration after one year); **Pls.' Exh. 23** (4/27/96 McKeon memo to EPT); **Pls.' Exh. 27** (7/31/96 Quarles memo to Gidley); **Bolden**, TR Vol. 3, pp. 98-109 (issue "hotly debated", never a lot of agreement)

35. Defendants explicitly rejected less harsh alternatives. **McGinnis**, TR Vol. 8, pp. 32-33 (possibility, embodied in 1/15/97 DOM, of restoring non-contact visits if prisoner was misconduct free for 12 months after restriction rejected as too lenient when policy directive adopted on 1/12/98), pp. 61-62 (progressive sanctions for successive substance abuse misconducts rejected as not appropriate for seriousness of offense); **Bolden**, TR Vol. 3, p. 103 (alternatives to permanent ban not considered because that was "direction that Director McGinnis wanted to go")

36. Permanent visiting restrictions were chosen as a penalty precisely because they constitute such a significant deprivation. **Van Ochten**, TR Vol. 1, pp. 99-100; **McGinnis**, TR Vol. 8, 73-74

37. Defendants expressly disregarded the impact of a permanent visiting restriction on the prisoner's family. **Van Ochten**, TR Vol. 1, pp. 100-01 (McGinnis' position was that impact on family was prisoner's fault and prisoner's problem)

G. The Rationales for Permanent Visiting Restrictions Are Unsupported.

38. Although DOC officials testified that substance abuse by

prisoners is a major problem because it can lead to violence and creates a dangerous atmosphere, these opinions do not justify permanent visiting restrictions for two substance abuse misconducts.

a. There was no testimony regarding violence levels before or after permanent restrictions were introduced. See, e.g., **Caruso**, TR Vol. 8, p. 96; **Bolden**, TR Vol. 4, p. 51

b. Mr. McGinnis acknowledged that he had testified in 1994 that Michigan prisons "were well managed, well controlled and had an absence of violence" and that violence was extremely low in Michigan compared to other states. **McGinnis**, TR Vol. 8, p. 52

c. Permanent visiting restrictions are not imposed for misconducts involving violence or threats of violence, even though Mr. McGinnis testified that there is "no acceptable level of violence" and that "the standard is that there will be no violence." **McGinnis**, TR Vol. 8, p. 74; **Benejam**, TR Vol. 2, p. 64 (son just limited to non-contact visits while appealing misconduct finding for starting a riot)

39. Although several of Defendant's witnesses expressed their opinions that substance abuse went down after the permanent restriction penalty was introduced, no data was introduced regarding any changes in the actual amount of abuse that occurred, any changes in the quantity of substance abuse misconducts issued, or the extent to which any changes that did occur might have other causes. **Caruso**, TR Vol. 8, pp. 87-89; **Withrow**, TR Vol. 8, p. 151 (has not studied extent of reduction and drug problem at Reformatory "was not terribly extensive prior to these changes."); **Jones**, TR Vol. 9, pp. 36-38; **McGinnis**, TR Vol. 8, pp. 75-76 (former director could not say whether substance abuse misconducts went up or

down)

40. Plaintiffs' expert testified that although a high proportion of prisoners have substance abuse problems when they enter prison and after they leave it, substance abuse while in prison is not a large problem and does not warrant the massive injury caused by separating family members through permanent restrictions. **Kupers**, TR Vol. 6, p. 171, Vol. 7, pp. 6-7

41. The permanent visiting ban for two substance abuse misconducts was not adopted to prevent drug smuggling during visits.

a. Existing rules already permitted the permanent restriction of visitors involved in smuggling. **Van Ochten**, TR Vol. 1, 112-14; **McGinnis**, TR Vol. 8, pp. 50-51

b. One instance of a major misconduct, such as drug smuggling, that occurs during or is associated with a visit, or one criminal act that occurs during a visit, is a separate basis for imposition of a permanent visiting restriction under the administrative rule and policy. **McGinnis**, TR Vol. 8, p. 51; **Bolden**, TR Vol. 4, 62-63

c. The Defendants have adequate tools to prevent and detect drug smuggling, including the use of non-contact visits and a number of steps taken in 1995, such as implementation of the approved visitor lists, a prohibition on visitors being on multiple visitor lists if they are not immediate family, restrictions on the conduct of visits, and more intrusive searches of visitors. **McGinnis**, TR Vol. 8, pp. 50-51; **Bolden**, TR Vol. 3, pp. 67-68; **Mintzes**, TR Vol. 5, pp. 6-7; **Kupers**, TR Vol. 7, pp. 4-5

d. Both prisoners and visitors involved in smuggling are subject to criminal prosecution. **MCL 800. 281**; **Pls.'**

Exh. 40: No. 180393, **Jon Weaver**, p. 338; No. 186296, **William Brussow**, pp. 395-96

e. Although reducing substance abuse may indirectly affect smuggling by reducing demand, the same permanent restriction ban applies to prison made alcohol and prison prescribed medications that don't involve smuggling because the ban's focus is on use. **Van Ochten**, TR Vol. 1, p. 99-100

H. Prohibiting Visits with Family and Loved Ones Is Not a Rational Alternative to Treatment as a Means of Deterring Substance Abuse and Runs Directly Counter to Accepted Treatment Methods.

42. Substance abuse is defined as an Axis I mental illness in the Diagnostic and Statistical Manual that officially describes psychiatric illnesses. **Kupers**, TR Vol. 7, p. 14

43. The amount of substance abuse treatment available to prisoners is inadequate to meet the need and prisoners who desire substance abuse treatment are often unable to obtain it. **Van Ochten**, TR Vol. 1, pp. 96-97; **Staton**, TR Vol. 4, pp. 133-34 (prisoner finally placed in treatment program after requesting it for two years was removed when eligibility rules changed); **Yukins**, TR Vol. 6, p. 118 (waiting lists for Heritage program)

44. The quality of substance abuse treatment provided to prisoners is inadequate. **Van Ochten**, TR Vol. 1, p. 97

45. The permanent restriction rule was adopted without consulting Defendants' own Office of Substance Abuse Services. **Van Ochten**, TR Vol. 1, pp. 95-96

46. The consensus in substance abuse treatment is that developing a support network and bringing individuals

closer to their families is crucial. **Kupers**, TR Vol. 6, pp. 170, 173

47. Denying visits to people with substance abuse problems is extremely counterproductive because, instead of deterring substance abuse, the resulting isolation, despair, resentment and loss of family ties increase the likelihood the person will resort to substance abuse, especially upon return to the community. **Kupers**, TR Vol. 6, pp. 161, 163, 170-72; Vol. 7, p. 7.

48. Because alcohol and drug use often cause released offenders to return to prison, the negative impact of the permanent visiting ban on substance abuse undermines the legitimate penological goal of rehabilitation. **Kupers**, TR Vol. 7, p. 8; **Bolden**, TR Vol. 3, p. 32 (rehabilitation is an important penological objective)

I. Prohibiting Visits with Family and Loved Ones Will Not Deter Misuse of Medications, Non-completion of Drug Tests, or Other Substance Abuse Misconducts by Prisoners with Mental or Physical Illnesses, and May Actually Make Mental Illness Worse.

49. People with serious mental illness tend not to comply with their medication regimen because there are often side effects, not because they have substance abuse problems. **Kupers**, TR Vol. 7, pp. 13-14, 15;

a. The solution is an alternate medication. **Kupers**, TR Vol. 7, p. 15

b. A permanent visiting restriction will have absolutely no deterrent effect. **Kupers**, TR Vol. 7, p. 15

50. Since maintaining close ties with others is especially important for people prone to mental illness and isolation

is destructive of treatment, a permanent visiting ban is absolutely counter-therapeutic and may make the prisoner's illness worse. **Kupers**, TR Vol. 6, pp. 166-67; Vol 7, pp. 9-10, 15, 16

51. A number of prescription drugs make it difficult to urinate, as do some medical conditions, such as prostate cancer. **Kupers**, TR Vol. 7, pp. 18-21

52. A permanent visiting restriction will not deter people who are using drugs to medicate themselves for physical pain. **Kupers**, TR Vol. 7, p. 22

J. Both the Concept of Permitting the Director to Personally and Peremptorily Enhance Penalties for a Specific Type of Misconduct , and the Process for Imposing Permanent Visiting Restrictions, Differ Radically from the Statutory Scheme Established for Matters Involving Prisoner Discipline and Visitor Restrictions.

53. The hearings division was established by statute to implement due process protections in the discipline process as required by the U. S. Supreme Court in *Wolff v McDonnell.* **Van Ochten**, TR Vol. 1, p. 25;

54. Pursuant to MCL 791.251(2), the hearings division is responsible for conducting hearings "which may result in the loss by a prisoner of a right, including but not limited to any 1 or more of the following matters:

"(a) An infraction of a prison rule that may result in punitive segregation, loss of disciplinary credits, or the loss of good time.

(b) A security classification that may result in the placement of a prisoner in administrative segregation.

(c) A special designation that permanently excludes, by department policy or rule, a person under the jurisdiction of the department from community placement.

(d) Visitor restrictions.

(e) High or very high assaultive risk classifications." It is also responsible for hearings that may result in the accumulation of disciplinary time. **MCL 791.251(3)**; **Van Ochten**, TR Vol. 1, pp. 26, 113

55. Pursuant to MCL 791.252, hearings conducted by hearing officers must meet specified procedural requirements, including the following:

(a) The parties must be given an opportunity for an evidentiary hearing without undue delay.

(b) The parties must be given reasonable notice of the hearing.

(d) Each party must be given an opportunity to present evidence and oral and written arguments on issues of fact.

(i) Hearings must be conducted in an impartial manner. A hearings officer may be disqualified for bias.

(k) A final decision must be made within a reasonable period, include findings of fact, and state any sanction to be imposed against a prisoner as a direct result of a hearing conducted under this chapter. Findings of fact must be based exclusively on the evidence and on matters officially noticed. Decisions must be based on a preponderance of the evidence. The evidence must be

competent, material, and substantial. A copy of the decision or order must be provided to the prisoner immediately. **Van Ochten**, TR Vol. 1, p. 113

56. If a hearing is not held within 10 days for a bondable misconduct or 4 days for a nonbondable misconduct that is not being criminally prosecuted, the charge is dismissed. **Bolden**, TR Vol. 4, pp. 75-76

57. The decisions of hearing officers may be appealed through a rehearing process and, thereafter, to circuit court. **Van Ochten**, TR Vol. 1, pp. 113-14; **McGinnis**, TR Vol. 8, pp. 56, 71

K. The Permanent Restriction Policy Was Implemented Without Adequate Notice to Prisoners.

58. 1995 posted notices to prisoners regarding new visiting rules did not mention that permanent restriction would be the consequence of two substance abuse tickets. **Defs.' Exh. 1A**; **McGinnis**, TR Vol. 8, pp 46-47; **Staton**, TR Vol. 4, p. 139 (woman prisoner saw no postings re: permanent bans)

59. No policy directive was issued until 1998, three years after application of the ban had begun in August 1995, and restriction criteria were continually evolving. **Van Ochten**, TR Vol. 1, pp. 38-40; **Pls.' Exh. 5,** DOM 1995-58/DOM 1996-42; **McGinnis**, TR Vol. 8, p. 47; **Bolden**, TR Vol. 3, p. 97 (possible criteria still being discussed in February 1996); **Pls.' Exh. 23** (4/27/96 McKeon memo to EPT); **Pls.' Exh. 27** (7/31/96 Quarles memo to Gidley)

60. Prisoners in camps who had no access to law libraries had no notice of restriction possibility. **Johnson**, TR Vol. 4, p. 163; **Brewer**, TR Vol. 7, p. 106

L. The Permanent Restriction Policy Contains No Safeguards Against Arbitrary, Discriminatory, or Retaliatory Decisions.

61. There are no written criteria to guide either the Deputy's or the Director's decisions about whether a permanent restriction should be imposed. **Pls.' Exh. 2,** PD 05.03.140, Secs. BBB and CCC

62. There is no notice to the prisoner of intent to impose a permanent restriction and no hearing at which the prisoner can present mitigating or extenuating circumstances. **Bolden**, TR Vol. 4, p. 81; **Brewer**, TR Vol. 7, p. 109; **Clark**, TR Vol. 4, p. 114 (learned she was on permanent restriction when family called from Fla. to make visiting arrangements); **Pls.' Exh. 40**: No. 195621, **Johnny Taylor**, pp. 503, 513 (prisoner did not learn of permanent restriction until 10 months after imposition, when fiancé and son tried to visit, because never notified by Warden Caruso)

63. There is no procedure for either judicial or administrative review of permanent restriction decisions. **Van Ochten**, TR Vol. 1, p. 108; **Bolden**, TR Vol. 3, pp 145-46; **Brewer**, TR Vol. 7, p. 109; **Clark**, TR Vol. 4, p. 116

64. Unless there has been a factual error in whether a prisoner actually has the requisite misconducts, the director's decision to impose a permanent restriction cannot be challenged through the grievance process. **Van Ochten**, TR Vol. 1, pp. 107-08 (grieving director's decision is "pretty pointless" where director ultimately answers grievances); **McGinnis**, TR Vol. 8, pp. 57-60, 70-71

M. The Inconsistencies in Whether and When a Permanent Restriction Is Imposed Are Enormous.

65. Sec. CCC of the policy directive states that if a prisoner has two substance abuse misconducts, "the warden shall recommend that all visits be permanently restricted." The warden is required to submit this recommendation, with all supporting documentation, to the appropriate regional prison administrator (RPA) who, in turn, is to review the recommendation and forward it to the Correctional Facilities Administration (CFA) Deputy Director. "If the CFA Deputy Director agrees that the restriction is warranted, the recommendation shall be submitted to the Director for a final determination."

a. The Director has absolute discretion to impose or not impose the restriction on any prisoner who has two substance abuse tickets. **Bolden**, TR Vol. 3, p. 127

b. The CFA Deputy Director has absolute discretion to prevent a restriction from being imposed by not forwarding a recommendation to the Director. *But see* **Bolden**, TR Vol. 3, p. 127 (Deputy Director does not believe he has authority to not forward recommendation)

66. It was understood when the new rule was adopted that a permanent visiting restriction would be imposed automatically whenever a prisoner received two substance abuse misconducts and that the director would not in fact exercise discretion on a case by case basis. **Van Ochten**, TR Vol. 1, pp. 103-04, 106

67. Over a period of nearly five years, 1715 of 4188, i.e. 41%, of the people who had two substance abuse misconducts actually received permanent restrictions. By year, the disparity ranged from 21% in 1996 to 60% in 1999. The evidence does not show to what extent this is because: a) the wardens are not recommending restrictions in all cases where they are required by policy

to do so, or b)the Deputy Director is exercising his discretion not to forward recommendations to the Director on some unknown and unreviewable basis, or c) the Director is deciding not to impose restrictions in a proportion of the eligible cases on some unknown and unreviewable basis. **Pls.' Exh. 51**; **Creekmore**, TR Vol. 5, pp. 48-50

68. Although a warden's recommendation for restriction is supposed to be mandatory after two tickets, wardens do not in fact make these requests automatically. See, e.g., **Pls.' Exh. 40**: No. 169509, **Michael Willis**, p. 274 (has misconducts at SMI in 11/95 and 1/96, but no request for restriction until 1/97, at MBP).

69. Some prisoners accumulate more than two misconducts before a recommendation to restrict is made. *See, e.g.*, **Pls.' Exh. 40**: No. 148325, **Quincy Leonard**, p. 131 (7 alcohol misconducts, all at SMI, from 12/15/95 – 8/9/96, restriction request by SMI on 10/21/96.); No. 161934, **Jeff Miller**, p. 221 (3 misconducts in Oct/Nov 1995 at WCF, 8/96 and 6/97 alcohol misconducts at SRF, restriction request by SRF on 6/11/97); No. 226669, Gregory **Winters**, p. 607 (6 drug test refusals at MBP from 7/29-9/24/96, date of restriction request by MBP unclear but restriction imposed 11/1/96); No. 247161, **David Tyran**, p. 760 (3 alcohol tickets at MTU from 11/96-1/97, 2 marijuana tickets at MRF in 4/97, restriction request by MRF in 5/97); **Yukins**, TR Vol. 6, pp. 62-63, 65-67, 69-75 **Pls.' Exhs. 58, 59, 60, 61, 62**

70. The average time between the guilty finding on the second substance abuse misconduct and imposition of the permanent visiting restriction has increased each year and is now nearly 7 mos. **Pls.' Exh. 47**; **Creekmore**, TR Vol. 5, p. 57

71. Some people who have two tickets do not receive a permanent restriction until three years after their last guilty finding. **Brewer**, TR Vol. 7, p. 107 (restriction imposed when prisoner request to change visitor list prompted file review). *See* also **Pls.' Exh. 40**: No. 203124, **David Brewer**, p. 552 (1 misconduct at CBI in 10/95, 2 misconducts at JCF in 1/96 and 3/96, restriction request by JCF on 12/21/98, restriction imposed 2/99)

72. Often the restriction is not imposed until the prisoner is transferred and a request is made by the warden at the new facility. *See, e.g.*, **Plfs. Exh. 40**: No. 104922, **R. G. Stroman**, p. 001(restriction requested by JCF 3 ½ years after last guilty finding at SMN, over RPA's objection); No. 173758, **Lee Arthur Love**, p. 300 (restriction requested by JCF 3 ¼ years after last guilty finidng at DRF); No. 193320, **Cardell Sanders**, p. 468 (restriction requested by JCF over 3 years after last guilty finding at DRF, over RPA's objection); No. 201399, **Andrew Broadnax**, p. 545(restriction requested by JCF over 2 ½ years after last guilty finding at SMN, over RPA's objection), No. 245951, **Joseph Hopkins**, p. 754 (restriction requested by JCF 2 years after last guilty finding at ARF)

73. The policy directive does not require that imposition of a permanent restriction be delayed pending a prisoner's appeal of an underlying misconduct finding and there is no evidence that delay in imposing restrictions results from such appeals.

74. Defendants impose permanent restrictions long after the last substance abuse misconduct occurred even though punishment at that point is ineffectual and even counterproductive. **McGinnis**, TR Vol. 8, p. 66 (imposing punishment two years after the last misconduct has minimal deterrent effect); **Bolden**, TR Vol. 3, pp.

136-140 (there is no statute of limitations on prisoner misconduct and prisoners caught using drugs should be penalized regardless of when the sanction is imposed); **Mintzes**, TR Vol. 6, pp. 18-19 (long delay between second misconduct and permanent restriction is problematic because emotionally prisoner will not be able to relate sanction to behavior); **Kupers**, TR Vol. 6, p. 164 (punishing people months after second infraction is inconsistent with accepted mechanisms for altering behavior); pp. 164-65 (delayed punishment is perceived by prisoners as arbitrary, mean, and excessive, and causes anger and resentment)

N. The Lack of Substantive Criteria Has Led to Arbitrary and Unfair Results.

75. Some prisoners have received permanent restrictions despite the lapse of three years between their first and second misconducts, although the deputy director testified that both tickets should fall within a "window period" to justify a restriction. *See, e.g.*, **Pls. Exh. 40**: No. 146159, **Paul Weaver**, p. 125 (3 years and 3 months between misconducts for marijuana on 7/5/96 and restricted meds on 10/4/99); No. 156713, **Richard Edwards Jr.**, p. 159 (3 years and 3 months between misconducts for marijuana on 12/4/95 and 3/9/99); No. 164431, **Carlton Clark,** p. 268 (4 years and 2 months between marijuana findings on 1/21/96 and 3/20/00); No. 179745, **Jerold Terrell**, p. 330 (3 years between misconducts for other drugs on 12/3/96 and 11/19/99); **Bolden**, TR Vol. 3, pp. 143-44; **Mintzes**, TR Vol. 6, p. 18 (long gap between misconducts may mean a prisoner who has "cleaned up his act" is disproportionately punished for a single relapse or for some other second misconduct that does not warrant such a sever sanction)

76. Some prisoners have received permanent restrictions for

two substance abuse misconducts, issued the same day, which arose from a single course of conduct, although the deputy director testified that this is unfair. *See, e.g.*, **Pls.' Exh. 40**: No. 178707, **Napoleon Wells**, p. 324 (two misconducts for possession of marijuana issued within 13 minutes during a continuing incident, one for packet thrown on ground and one for packet found in ensuing strip search); No. 238324, **Michael Couch**, p. 706 (two misconducts, 75 minutes apart, for possessing marijuana and a drug test showing use of marijuana); No. 240505, **Lawrence White**, p. 734 (two misconducts within ten minutes for packet of marijuana found during search of prisoner's person and three packets found during ensuing search of cell); **Bolden**, TR Vol. 3, pp. 148-149 (concerned about unfairness of situation like Wells, supra); **Withrow**, TR Vol. 8, pp. 153-54 (had no choice but to refer White, supra, for permanent restriction)

77. Permanent restrictions have been imposed where the underlying conduct was relatively minor or there were extenuating circumstances. *See, e.g.*, **Pls.' Exh. 40**: No. 141963, **Marcos Martinez**, p. 105 (alcohol ticket for making "spud juice" to share with friends on New Year's); No. 178579, **Gerald Gaines**, p. 320 (used marijuana because mother had recently died and "was looking for escape); No. 162312, **Merion Johnson**, p. 238 (used marijuana to "ease the hurt" after mother died); No. 179745, **Jerold Terrell**, p. 330 (just had cancer operation and accepted offer of drugs from another prisoner); No. 192100, **Randy Cavallo**, p. 435 (refusal to wear sweat patch because apparent allergic reaction causes itching/tested negative on numerous urine tests); No. 234985, **Andre Fountain**, p. 692B (misconduct was "accomplice to substance abuse: for failing to tell staff that his roommate had alcohol); No. 128217, **Wendall Young**, p. 061 (test refusal misconduct for 51 year old man on several meds who could not urinate within one

hour allotted); No. 141352, **William Irby**, p. 095 (test refusal misconduct for 47 year old man on medication for prostrate condition who could not urinate within one hour allotted/ purpose of meds was to aid urination); No. 196461, **Clara Wilson**, p. 515 (test refusal misconduct for woman who could only produce small urine samples within one hour allotted and was not allowed to combine them); **Clark**, TR Vol. 4, pp. 113-14 (found guilty of drug test refusal although inability to urinate is side effect of medication); **Bolden**, TR Vol. 3, p.163 (deputy director testified some restrictions are imposed unfairly due to "sloppy" staff work; is "not very proud" of some cases contained in Pls.' Exh. 40); **Yukins**, TR Vol. 6, pp. 76-78 (warden has no choice but to recommend permanent restriction in a case like Wilson, supra, irrespective of the underlying conduct); **Kupers**, TR Vol. 7, pp. 19-22 (a number of permanent bans were imposed for drug test refusals on people who were unable to urinate because of medications or medical conditions)

78. Permanent restrictions have been imposed where the prisoner is known to have a history of drug addiction, alcoholism, or mental illness that would directly relate to the misconduct – regardless of placement or progress in treatment. *See, e.g.*, **Pls.' Exh. 40**: No. 172502, **Jeffrey Carey**, p. 293 (mentally ill prisoner found guilty of possessing restricted medication for spitting out prescribed medication he was authorized to refuse); No. 245951, **Joseph Hopkins**, p.754 (mentally ill prisoner found guilty of possessing medication he had kept instead of taking); No. 136547, **Troy Grisson**, p. 078 (marijuana misconducts by prisoner whose file shows history of drug problems before incarceration); No. 170623, **James Englemann**, p. 281 (drug test failures by prisoner whose file shows history of substance abuse since age 11); **Kupers**, TR Vol. 7, pp. 10-15 (placing Hopkins, supra and Carey, supra on permanent restriction for reacting to

their medication serves no purpose and is counter-productive); **Bolden**, TR Vol. 4, pp. 87-88 ("legitimate argument could be made" that permanent ban should not have been imposed on Carey, supra); **Southwick**, TR Vol. 9, pp. 152-153 (in providing information to deputy director, administrative assistant does not check on whether prisoners are mentally ill, or whether they have sought or received substance abuse treatment)

O. The Visit Restoration Policy Contains No Safeguards Against Arbitrary, Discriminatory or Retaliatory Decisions.

79. Although, upon the written request of the warden or the prisoner, a restriction may be removed after at least six months, in the case of alcohol tickets only, or at least two years in other cases, the Director has absolute unfettered discretion not to restore visits. **P.D. 05.03.140, Sec. FFF**; **McGinnis**, TR Vol. 8, p. 64

80. Section GGG describes the procedure for considering restriction removal requests. The prisoner may submit a written request to the warden. If the prisoner has met the time criteria described in FFF, the warden is required to submit his or her written recommendation, along with the prisoner's request, to the appropriate RPA. The RPA reviews the documents and forwards them to CFA Deputy Director. "The CFA Deputy Director shall review the request and make a written recommendation to the Director for a final determination. If denied, the Director shall determine when the prisoner may reapply for removal of the restriction."

81. There are no written criteria to guide either the CFA Deputy Director's recommendation or the Director's ultimate determination regarding whether a restriction should be lifted or when the prisoner may reapply.

Criteria developed before the policy directive was adopted were rescinded. **Van Ochten**, TR Vol. 1, pp. 110-12; **McGinnis**, TR Vol. 8, p. 65; **Pls.' Exh. 28**; **Bolden** TR Vol. 3, pp. 116-24, 152, 156-57

82. There is no requirement that reasons for denying restoration be articulated. **Mintzes**, TR Vol. 6, p. 20 (Reasons for denying restoration should be given to prisoner in writing so they understand connection between behavior and consequences)

P. The Restoration Process Is Conducted in an Arbitrary and Inconsistent Manner, Without Regard to Requirements of Policy.

83. Despite the timing criteria of Sec. FFF, some prisoners restricted for a mixture of alcohol and non-alcohol substance misconducts are considered for restoration after six months, while others are required to wait two years. *Compare, e.g.*, **Pls.' Exh. 40**: No. 134352, **David Purnell**, p. 069 (one alcohol and one test refusal; Director's 11/4/97 restriction memo says: "I will review this case in six months."); No. 163852, **Patrick Turner**, p. 249 (two alcohol and one positive marijuana test; Director's 9/6/96 restriction memo says: "I will review this case in six months); No. 169509, **Michael Willis**, p. 274 (one alcohol and one marijuana possession; Director's 2/10/97 restriction memo says: "I will review this case in six months.") *with* No. 128217, **Wendell Young**, p. 061 (one alcohol and one urine test refusal, 4/5/99 permanent restriction); No. 141963, **Marcos Martinez**, p. 102 (one alcohol and one marijuana possession, 4/5/99 permanent restriction); **Bolden**, TR Vol. 3, pp. 149-50; **Bowyer**, TR Vol. 4, pp. 185-89, 192 and No. 191172, **Harrison Bowyer**, p. 408 (warden recommended restriction for 1996 and 1999 alcohol misconducts that would have allowed restoration in six

months, but deputy director imposed permanent restriction on 2/3/00 for 1999 alcohol and 1997 restricted meds)

84. Despite the timing criteria of Sec. FFF, some prisoners who have only alcohol related misconducts are required to wait a year before requesting restoration instead of just six months. *See, e.g.*, **Pls.' Exh. 40**: No. 148325, **Quincy Leonard**, p. 131 (multiple alcohol tickets, Deputy Director recommends one year restriction, Director's 11/22/96 restriction memo says: "I will review this case in twelve months"); No. 175338, **David Byard**, p. 307 (three alcohol tickets, Deputy Director recommends one year restriction, Director's 11/8/96 restriction memo says: "I will review this case in twelve months."); **Bolden**, TR Vol. 3, pp. 150-51

85. Although subsection FFF places the burden for requesting restoration on the prisoner, there is no requirement that prisoners be notified of when, how, and on what basis restoration may be requested, and they often do not, in fact, have this information. **McGinnis**, TR Vol. 8, p. 70; **Bolden**, TR Vol. 3, pp. 152-56; **Kupers**, TR Vol. 6, p. 177; **Bowyer**, TR Vol. 4, p. 182 (prisoner notified by mail that visits were restricted had to write prison officials seeking information before being told restoration would not be considered for two years); **Clark**, TR Vol. 4, p. 115 (written notice of restriction said nothing about when or how it could be lifted); **Staton**, TR Vol. 4, pp. 139-40 (prisoner believed ban was permanent because given no information re: how to get it lifted)

86. Although subsection FFF places the burden for requesting restoration on the prisoner, the actual practice is confusing and unclear.

a. In some cases, review of a permanent restriction is apparently initiated by the central office. **Pls.' Exh. 40**: No. 159580, **Keith Young,** p. 177 (warden conducts six month review in response to e-mail from Deputy Director's staff)

b. Although in many cases the director's restriction memo affirmatively states, in bold type: "I will review this case in six months", this review did not in fact routinely occur. **Pls.' Exh. 40**: No. 134352, **David Purnell**, p. 069; No. 163852, **Patrick Turner**, p. 249; No. 169509, **Michael Willis**, p. 274; No. 258127, **Rufus Neely**, p. 789, No. 237134, **Benjamin Atkins**, p. 693; **McGinnis**, TR Vol. 8, pp. 67-70

87. Although subsection GGG says that when timing criteria have been met wardens must submit prisoner requests for restoration to the Deputy Director though the RPA, Defendants advise wardens not to forward requests unless the wardens are recommending reinstatement, thus effectively putting the restoration decision in the wardens' hands. **Pls.' Exh. 40**: No. 180393, **Jon Weaver**, p. 337 ("In all cases where Wardens do not recommend reinstatement, they need not notify Deputy Director Bolden.") and No. 209803, **James Risk**, p. 580 ("You need not forward any requests to us unless the prisoner is eligible and you recommend reconsideration.")

88. Although subsection GGG says the Deputy Director is to make a written recommendation regarding restoration requests to the Director, and the Director is responsible for the final decision, in fact the Deputy Director regularly advises wardens that he is not forwarding requests to the Director and denies restoration for reasons of his own. *See, e.g.*, **Pls.' Exh. 40**: No. 158018, **Gregory Dudley**, p. 167; No. 225182, **Demond**

Heidelberg, p. 595; No. 239781, **Julian Thurman**, p. 724; No. 162312, **Merion Johnson**, p. 234; No. 238324, **Michael Couch**; No. 243518, **Joseph Van Buskirk**, p. 745; **Pls.' Exh. 1**, R 791.6609(12); **Bolden,** TR Vol. 3, p. 159; Vol. 4, pp. 79-80

89. Although subsection GGG says that when restoration is denied, the Director is to determine when the prisoner may reapply, in fact the Deputy Director regularly denies restoration without specifying a next application date. *See, e.g.*, **Pls.' Exh. 40**: No. 158018, **Gregory Dudley**, p. 167 (Dep. Director requires "further demonstration of misconduct free behavior" for unspecified time period, though prisoner is scheduled to parole in 50 days); No. 162312, **Merion Johnson**, p. 234 (where restriction had been in effect over two years and only intervening misconduct was 10 month old marijuana use, Dep. Director requires "further demonstration of misconduct free behavior for unspecified time period); No. 225182, **Demond Heidelberg**, p. 595 (further demonstration of misconduct free behavior required for unspecified time period); No. 239781, **Julian Thurman**, p. 724 (Dep. Director wants unspecified period of misconduct free behavior "before I will seek reinstatement of his privileges"); **Bolden**, TR Vol. 3, pp. 159-161

90. When reapplication periods are specified, they range from six months to 12 months to 24 months, without any apparent uniform standard being applied. *See, e.g.*, **Pls.' Exh. 40**: No. 159580, **Keith Young**, p. 177 (prisoner already on restriction for 14 months who had two additional alcohol misconducts must remain misconduct free for 12 more months before Dep. Director will recommend restoration); No. 238324, **Michael Couch**, p. 706 (prisoner restricted on 3/12/98 who has "various" subsequent misconducts, including one for restricted meds, has restoration request denied on 5/15/00 by Dep.

Director who say request may be resubmitted six months from then); No. 243518, **Joseph Van Buskirk**, p. 745 (prisoner who had four additional substance abuse misconducts after restriction, but before completing substance abuse treatment, is denied restoration 18 months after last ticket for "poor adjustment"; may resubmit request in another six months); No. 249102, **Brian Mixen**, p. 776 (prisoner with six non-substance abuse misconducts during two years on restriction must be one year misconduct free from last ticket before restoration will be considered); No. 258127, **Rufus Neely,** p. 789 (prisoner who has one additional substance abuse misconduct during 22 months on restriction for two alcohol tickets must be misconduct free for two years from date of that misconduct); **Bolden**, TR Vol. 3, pp. 161-62 (prisoner who gets misconducts often will be given shorter reapplication period than prisoner "who is slick and doesn't get caught" but who deputy director personally believes is involved in drug business)

91. Prison administrators gave erroneous testimony about what policy requires and contradictory testimony about how it is applied. **Bolden**, TR Vol. 3, p. 127 (deputy director testified he lacked discretion to not refer a restriction request to the director, despite Sec. CCC of policy directive); **McGinnis**, TR Vol. 8, pp. 64, 66-67 (former director testified he made all restoration decisions personally; was unaware that deputy director did not forward all requests to him); **Bolden**, TR Vol. 4, pp 79-80 (deputy director testified that director delegated final restoration decisions to him); **Southwick**, TR Vol. 9, pp. 141-44, 147-50 (deputy director's administrative assistant testified that she provides information regarding restoration requests to deputy director who does recommendation to director; all recommendations go to director for final decision except that deputy director's policy is not to refer restoration requests to director in

some cases where restriction was based on smuggling)

Q. The Disparities in Whether and When Visits Are Restored Are Enormous.

92. Of the 1576 prisoners placed on permanent restriction through December 1999, 1124 were still on restriction in May 2000. This included 72% of those restricted in 1995, 53% of those restricted in 1996, and 53% of those restricted in 1997. **Pls.' Exh. 50**; **Creekmore**, TR Vol. 5, pp. 51-54

93. Twenty-four people had their visits restored in less than six months. **Pls' Exh 48.**

94. Of the 453 prisoners whose visits were restored through 1999, 49.4% spent less than 27 months on restriction and 50.6% spent 27 months or more. **Pls' Exh 48.** **Creekmore**, TR Vol. 5, pp. 54-56

95. By May 2000, 149 prisoners had been on restriction for 3 ½ years or longer. **Pls' Exhibit 50;** *See, e.g.*, **Pls.' Exh. 40**: No. 110133, **Charles Jackson**, p. 007; No. 148325, **Quincy Leonard**, p. 131; No. 152829, **Curtis Lewis**, p. 149; No. 159580, **Keith Young**, p. 177; No. 163852, **Patrick Turner**, p. 249; No. 170633, **James Englemann**, p. 281; No. 175338, **David Byard**, p. 307; No. 178707, **Napoleon Wells**, p. 324; No. 193525, **Richard Custard**, p. 474; No. 220990, **James Larry**, p. 585; No. 225182, **Demond Heidelberg**, p. 595; No. 226669, **Gregory Winters**, p. 607

R. Lack of Criteria Lead to Restoration Being Denied for Wide Variety of Reasons, Based on the Personal Views of Wardens, the Deputy Director and the Director.

96. The testimony of Department officials indicated that restoration was denied for widely disparate reasons, depending on the identity of the decisionmaker. **McGinnis**, TR Vol. 8, p. 64 (type of drugs involved, "nature of the case"); **Bolden,** TR Vol. 3, p. 157 (misconduct history, program involvement, R&GC recommendations); **Southwick**, TR Vol. 9, pp. 140-41 (standards "more or less" in her head are continued pattern of substance abuse or other disruptive behavior); **Caruso**, TR Vol. 8, pp. 94, 110 (lack of further substance abuse not enough, considers other misconduct, prisoner's full history); **Jones**, TR Vol. 9, pp. 35-36, 56 (in addition to being free of substance abuse misconducts, prisoner must demonstrate "extended period of positive behavior"; considers other major misconducts, refusals to participate in school or counseling, "how well they've done on their institutional assignment", "irresponsible behavior"); **Langley**, TR Vol. 9, pp. 79-80 (institutional behavior and substance abuse history; will not restore until at least one year after last substance abuse ticket); **Yukins**, TR Vol. 6, p. 82 (does not recommend restoration if "not comfortable" doing so)

97. Some people have had their visits restricted for well over two years despite recommendations for restoration from wardens. *See, e.g.*, **Pls.' Exh. 40**: No. 162312, **Merion Johnson**, p. 234 (prisoner restricted on 4/29/97 for refusing drug test and possession of marijuana remains on restriction despite 4/8/99 recommendation by warden to restore); No. 163852, **Patrick Turner**, p. 249 (wheelchair bound prisoner restricted on 9/6/96 for alcohol and marijuana use who is at Level 5 facility for being management problem and has lost phone privileges remains on restriction despite 9/23/97 recommendation from warden to restore because visits would be non-contact, might encourage compliance with institutional rules, and would afford family support); No. 249102,

Brian Mixen, p. 776 (prisoner restricted on 1/15/97 for alcohol and marijuana use still on restriction despite 1/19/99 recommendation from Warden Caruso to restore because no more substance abuse misconducts after restriction); No. 243518, **Joseph Van Buskirk** (prisoner restricted on 10/8/97 for dirty urine and refusing drug test denied restoration despite positive recommendation from Warden Caruso, no misconducts for 18 months, and completion of substance abuse treatment); **Bolden**, TR Vol. 3, pp. 151-52

98. Since wardens are given no explanation when their recommendations for restoration are rejected, they cannot explain the decisions to prisoners. **Withrow**, TR Vol. 8, pp. 154-55; **Yukins**, TR Vol. 6, pp. 83-84

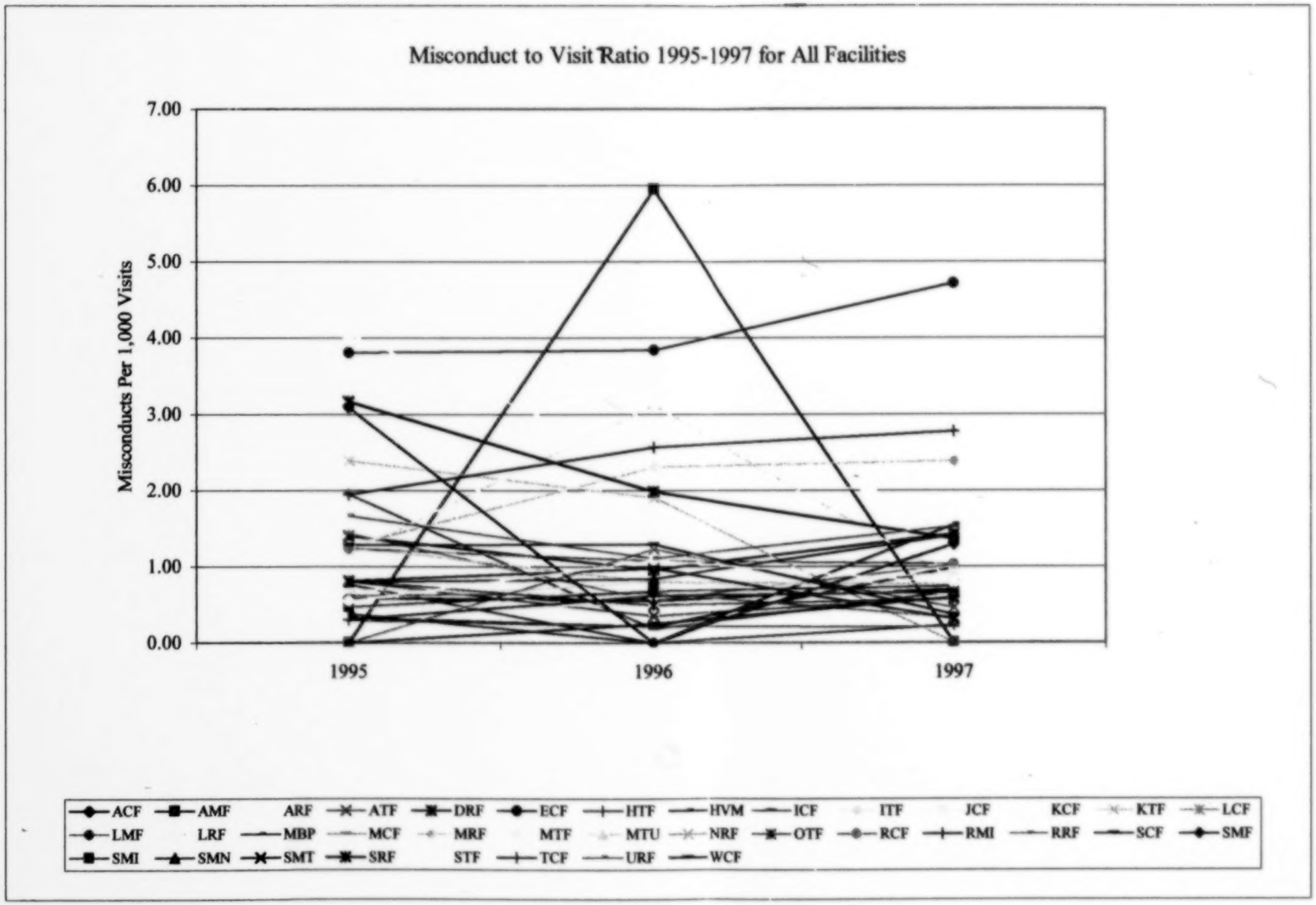
99. Unexplained disparate restoration decisions lead prisoners to feel they are being treated unfairly, which in turn causes anger, irritability, obsessive resentment and increased acting out. **Mintzes**, TR Vol. 6, pp. 13-15; **Kupers**, TR Vol. 6, pp. 164-65

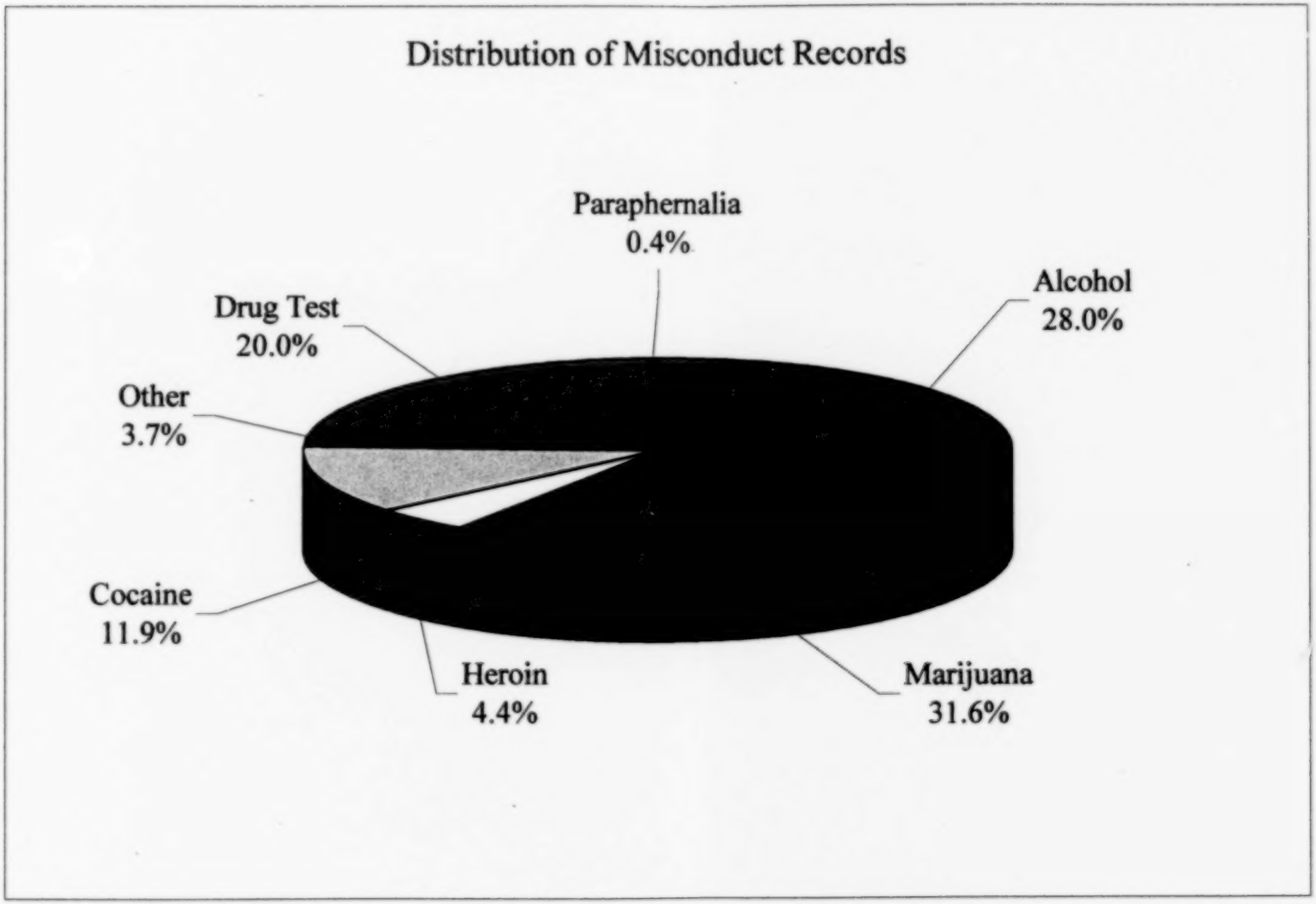
100. Permanent restrictions for substance abuse have been converted sub rosa into a tool for general behavior management, where restrictions are routinely continued on the basis of behavior for which policy does not authorize a visiting restriction in the first instance. *See, e.g.*, **Pls.' Exh. 40**: No. 158018, **Gregory Dudley,** p. 167 (restoration denied to prisoner who had completed substance abuse treatment and had excellent work reports because of five subsequent tickets, including insolence, restricted meds, and three "out of place"); No. 225182, **Demond Heidelberg,** p. 595 (restoration denied to Level 5 prisoner with multiple subsequent misconducts, none related to substance abuse); No. 233162, **David Wood**, p. 692A (6 month restriction for two alcohol misconducts continued indefinitely after Warden Caruso recommends

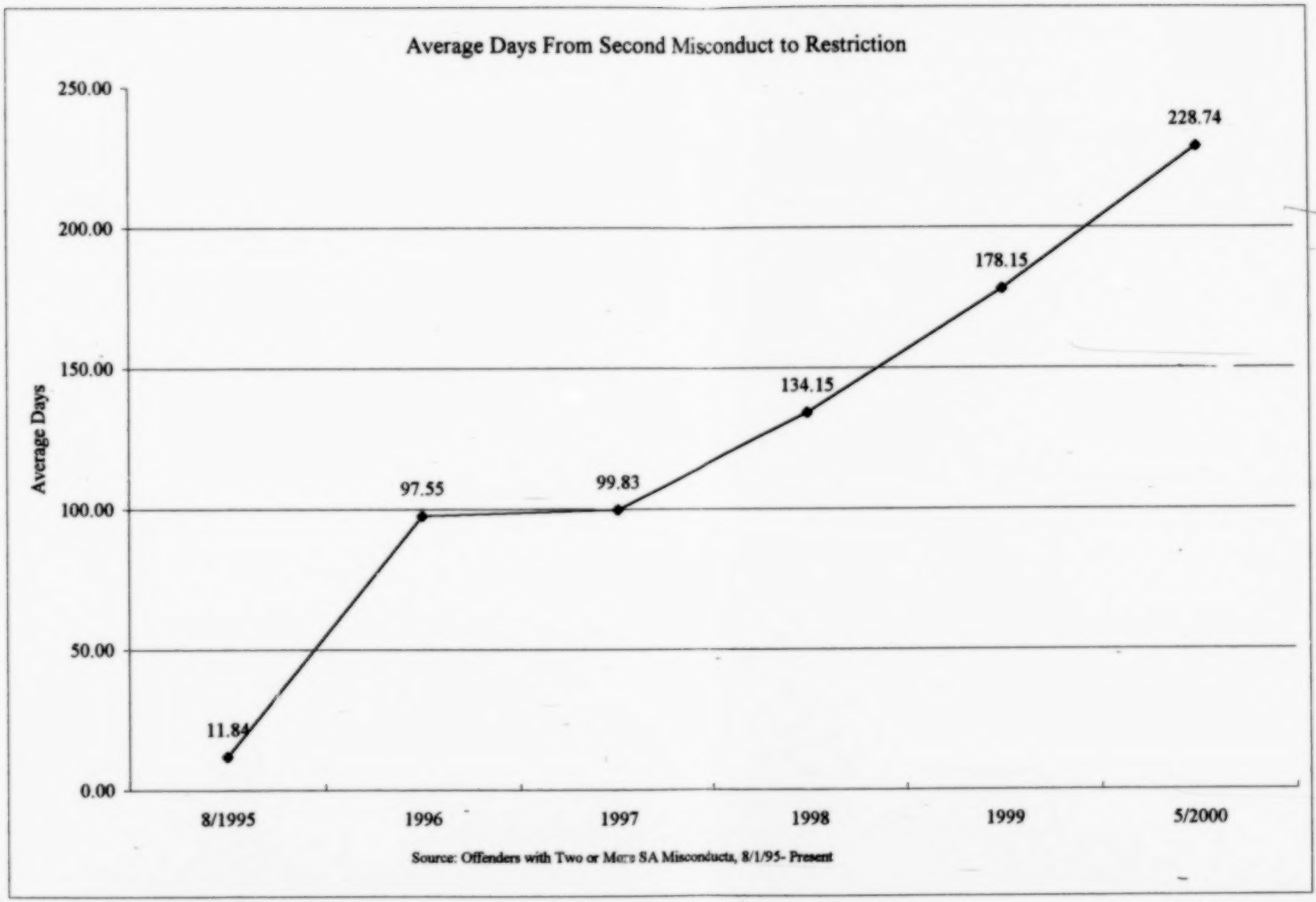
no restoration based on one misconduct for disobeying a direct order);No. 239781, **Julian Thurman**, p. 724 (restoration denied more than three years after restriction imposed based on eight subsequent misconducts, none for substance abuse); No. 249102, **Brian Mixen**, p. 776 (restoration denied at six month review because of one ticket for unauthorized occupation of a cell; restoration denied after two years based on total of six misconducts after restriction, none for substance abuse); No. 242794, **Kenneth Pringle**, p. 744A (6 month restriction for two alcohol misconducts continued for 6 months based on two non-substance abuse misconducts; Warden Caruso had recommended requiring one year misconduct free before reconsideration "since visiting is considered a privilege."); No. 263692, **Jack Hodges,** p. 799A (6 month restriction for two alcohol misconducts continued for 6 months for three non-substance abuse misconducts; Warden Kapture had recommended no restoration until 6 months misconduct free and 6 months satisfactory work or school performance); **Bolden**, TR Vol. 3, pp. 157-58; **Caruso**, TR Vol. 8, p. 94 (permanent restriction is "powerful tool" in managing prisoners; will not restore visits unless prisoners are "behaving themselves")

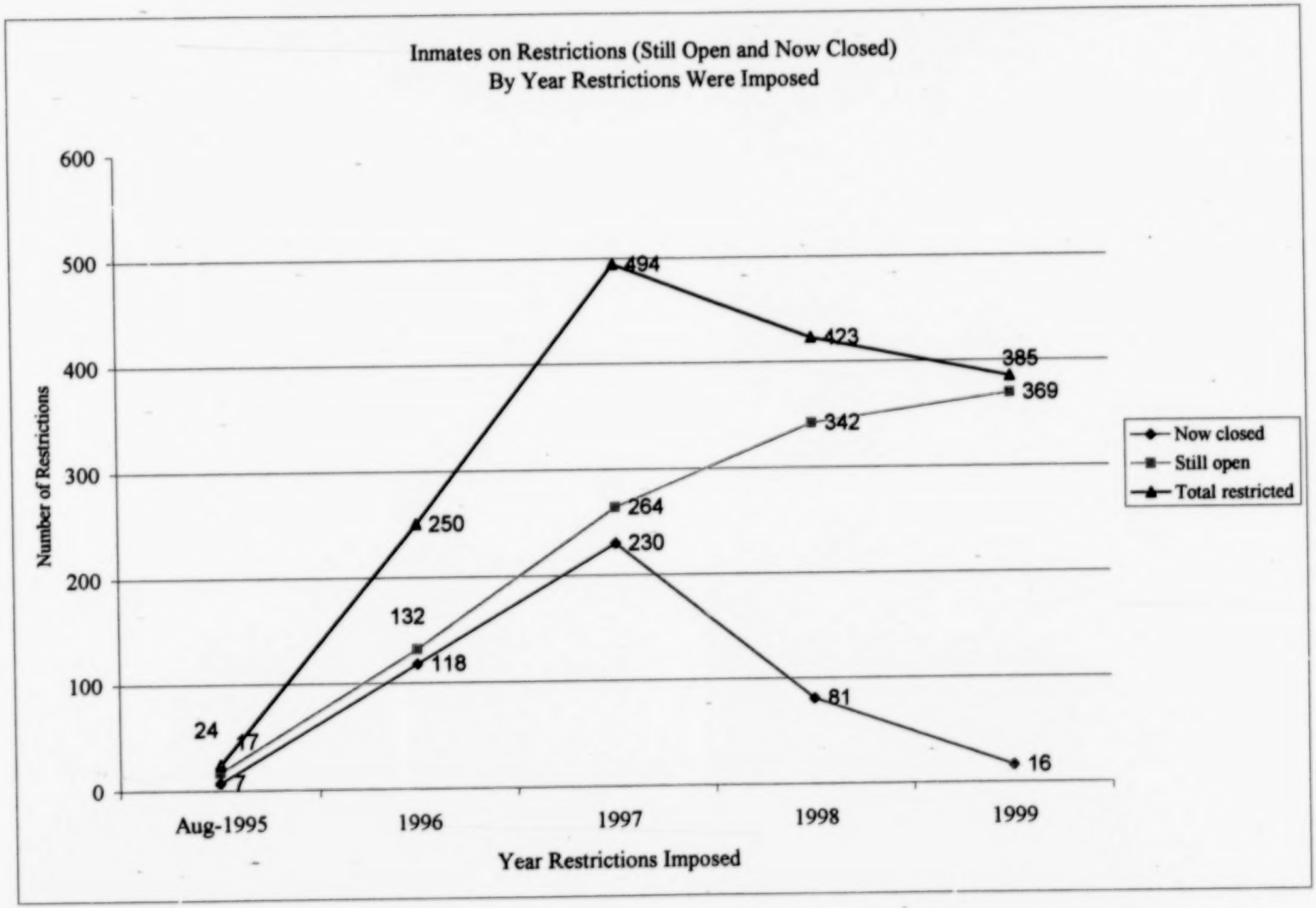
101. Using non-substance abuse misconducts to extend a visiting ban imposed for substance abuse is unfair, excessive, and absolutely counterproductive. **Kupers**, TR Vol. 7, pp. 16-18

102. The arbitrariness and unfairness of the permanent restriction process makes the trauma of the restriction harder to bear and actually increases the tendency to resort to medication or drugs. **Kupers**, TR Vol. 6, pp. 178-79


Misconduct to Visit Ratio 1995-1997 for All Facilities
Misconducts Per 1,000 Visits
7.00
6.00
5.00
4.00
3.00
2.00
1.00
0.00
1995
1996
1997
ACF AMF ARF ATF DRF ECF HTF HVM ICF ITF JCF KCF KTF LCF
LMF LRF MBP MCF MRF MTF MTU NRF OTF RCF RMI RRF SCF SMF
SMI SMN SMT SRF STF TCF URF WCF


Distribution of Misconduct Records
Paraphernalia
0.4%
Alcohol
28.0%
Drug Test
20.0%
Other
3.7%
Cocaine
11.9%
Heroin
4.4%
Marijuana
31.6%


Average Days From Second Misconduct to Restriction
250.00
200.00
150.00
100.00
50.00
0.00
Average Days
11.84
97.55
99.83
134.15
178.15
228.74
8/1995
1996
1997
1998
1999
5/2000
Source: Offenders with Two or More SA Misconducts, 8/1/95- Present



09/05/2000

T restricted Chart 1